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Tuesday
July 24, 1979

Highlights

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Highlights

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Federal Register
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Presidential Documents

Title 3—

The President

Executive Order 12148 of July 20, 1979

Federal Emergency Management

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 *et seq.*), the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. 5121 *et seq.*), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 *et seq.*), Section 4 of Public Law 92–385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 *et seq.*), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and in order to transfer emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:

Section 1. Transfers or Reassignments

1–1. *Transfer or Reassignment of Existing Functions.*

1–101. All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1–102. All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, are transferred or reassigned to the Director of the Federal Emergency Management Agency, including any of those functions redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

1–103. All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1–104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 *et seq.*), including those functions performed by the Office of Science and Technology Policy, are delegated, transferred, or reassigned to the Director of the Federal Emergency Management Agency.

1–2. *Transfer or Reassignment of Resources.*

1–201. The records, property, personnel and positions, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or redelegated by this Order are hereby transferred to the Director of the Federal Emergency Management Agency.

1–202. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

Section 2. Management of Emergency Planning and Assistance

2–1. *General.*

2–101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all civil defense and civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2–102. The Director shall periodically review and evaluate the civil defense and civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2–103. The Director shall be responsible for the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents.

2–104. The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response, and recovery programs.

2–105. The Director shall provide an annual report to the President for subsequent transmittal to the Congress on the functions of the Federal Emergency Management Agency. The report shall assess the current overall state of effectiveness of Federal civil defense and civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

2–2. *Implementation.*

2–201. In executing the functions under this Order, the Director shall develop policies which provide that all civil defense and civil emergency functions, resources, and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2–202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2–203. For purposes of this Order, "civil emergency" means any accidental, natural, man-caused, or wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2–204. In order that civil defense planning continues to be fully compatible with the Nation's overall strategic policy, and in order to maintain an effective link between strategic nuclear planning and nuclear attack preparedness planning, the development of civil defense policies and programs by the Director of the Federal Emergency Management Agency shall be subject to oversight by the Secretary of Defense and the National Security Council.

2–205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director of the Federal Emergency Management Agency with support for civil defense programs in the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2–206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

2–3. *Transition Provisions.*

2–301. The functions which have been transferred, reassigned, or redelegated by Section 1 of this Order are recodified and revised as set forth in this Order at Section 4, and as provided by the amendments made at Section 5 to the provisions of other Orders.

2–302. Notwithstanding the revocations, revisions, codifications, and amendments made by this Order, the Director may continue to perform the functions transferred to him by Section 1 of this Order, except where they may otherwise be inconsistent with the provisions of this Order.

Section 3. Federal Emergency Management Council

3–1. *Establishment of the Council.*

3–101. There is hereby established the Emergency Management Council.

3–102. The Council shall be composed of the Director of the Federal Emergency Management Agency, who shall be the Chairman, the Director of the Office of Management and Budget and such others as the President may designate.

3–2. *Functions of the Council.*

3–201. The Council shall advise and assist the President in the oversight and direction of Federal emergency programs and policies.

3–202. The Council shall provide guidance to the Director of the Federal Emergency Management Agency in the performance of functions vested in him.

3–3. *Administrative and General Provisions.*

3–301. The heads of Executive agencies shall cooperate with and assist the Council in the performance of its functions.

3–302. The Director of the Federal Emergency Management Agency shall provide the Council with such administrative services and support as may be necessary or appropriate.

Section 4. Delegations

4–1. *Delegation of Functions Transferred to the President.*

4–101. The following functions were transferred to the Director of the Office of Defense Mobilization by Section 2 of Reorganization Plan No. 3 of 1953 (50 U.S.C. 404 note); they were subsequently transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency:

(a) The functions vested in the Secretaries of the Army, Navy, Air Force, and Interior by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 *et seq.*), including the functions vested in the Army and Navy Munitions Board by item (2) of Section 6(a) of that Act (50 U.S.C. 98e(a)(2)), but excluding the functions vested in the Secretary of the Interior by Section 7 of that Act (50 U.S.C 98f).

(b) The functions vested in the Munitions Board of the Department of Defense by Section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)).

(c) The function vested in the Munitions Board of the Department of Defense by Section 204(f) [originally 204(e)] of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)).

4–102. The functions vested in the Director of the Office of Defense Mobilization by Sections 103 and 303 of the National Security Act of 1947, as amended by Sections 8 and 50 of the Act of September 3, 1954 (Public Law 779; 68 Stat. 1228 and 1244) (50 U.S.C. 404 and 405), were transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App.

2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4–103. (a) The functions vested in the Federal Civil Defense Administration or its Administrator by the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 *et seq.*), were transferred to the President by Reorganization Plan No. 1 of 1958, and they are hereby delegated to the Director of the Federal Emergency Management Agency.

(b) Excluded from the delegation in subsection (a) is the function under Section 205(a)(4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286(a)(4)), relating to the establishment and maintenance of personnel standards on the merit basis that was delegated to the Director of the Office of Personnel Management by Section 1(b) of Executive Order No. 11589, as amended (Section 2–101(b) of Executive Order No. 12107).

4–104. The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C. App. 2271 note), any of the functions delegated by Sections 4–101, 4–102, and 4–103 of this Order.

4–105. The functions vested in the Administrator of the Federal Civil Defense Administration by Section 43 of the Act of August 10, 1956 (70A Stat. 636) were transferred to the President by Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), were subsequently revested in the Director of the Office of Civil and Defense Mobilization by Section 512 of Public Law 86–500 (50 U.S.C App. 2285) [the office was changed to Office of Emergency Planning by Public Law 87–296 (75 Stat. 630) and then to the Office of Emergency Preparedness by Section 402 of Public Law 90–608 (82 Stat. 1194)], were again transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4–106. The functions vested in the Director of the Office of Emergency Preparedness by Section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241–1), were transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4–107. That function vested in the Director of the Office of Emergency Preparedness by Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, and as further amended (20 U.S.C. 1132d–l(a)), to the extent transferred to the President by Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), is hereby delegated to the Director of the Federal Emergency Management Agency.

4–2. *Delegation of Functions Vested in the President.*

4–201. The functions vested in the President by the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), are hereby delegated to the Director of the Federal Emergency Management Agency.

4–202. The functions (related to grants for damages resulting from hurricane and tropical storm Agnes) vested in the President by Section 4 of Public Law 92–385 (86 Stat. 556) are hereby delegated to the Director of the Federal Emergency Management Agency.

4–203. The functions vested in the President by the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. 5121 *et seq.*), except those functions vested in the President by Sections 301(relating to the declaration of emergencies and major disasters), 401 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities), and 409 (relating to food coupons and surplus commodities), are hereby delegated to the Director of the Federal Emergency Management Agency.

4–204. The functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (91 Stat. 1098; 42 U.S.C. 7701 *et seq.*) are hereby delegated to the Director of the Federal Emergency Management Agency.

Section 5. Other Executive Orders

5–1. *Revocations.*

5–101. Executive Order No. 10242, as amended, entitled "Prescribing Regulations Governing the Exercise by the Federal Civil Defense Administrator of Certain Administrative Authority Granted by the Federal Civil Defense Act of 1950", is revoked.

5–102. Sections 1 and 2 of Executive Order No. 10296, as amended, entitled "Providing for the Performance of Certain Defense Housing and Community Facilities and Service Functions", are revoked.

5–103. Executive Order No. 10494, as amended, relating to the disposition of remaining functions, is revoked.

5–104. Executive Order No. 10529, as amended, relating to federal employee participation in State and local civil defense programs, is revoked.

5–105. Section 3 of Executive Order No. 10601, as amended, which concerns the Commodity Set Aside, is revoked.

5–106. Executive Order No. 10634, as amended, relating to loans for facilities destroyed or damaged by a major disaster, is revoked.

5–107. Section 4(d)(2) of Executive Order No. 10900, as amended, which concerns foreign currencies made available to make purchases for the supplemental stockpile, is revoked.

5–108. Executive Order No. 10952, as amended, entitled "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others", is revoked.

5–109. Executive Order No. 11051, as amended, relating to responsibilities of the Office of Emergency Preparedness, is revoked.

5–110. Executive Order No. 11415, as amended, relating to the Health Resources Advisory Committee, is revoked.

5–111. Executive Order No. 11795, as amended, entitled "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974", is revoked, except for Section 3 thereof.

5–112. Executive Order No. 11725, as amended, entitled "Transfer of Certain Functions of the Office of Emergency Preparedness", is revoked.

5–113. Executive Order No. 11749, as amended, entitled "Consolidating Disaster Relief Functions Assigned to the Secretary of Housing and Urban Development" is revoked.

5–2. *Amendments.*

5–201. Executive Order No. 10421, as amended, relating to physical security of defense facilities is further amended by (a) substituting the "Director of the Federal Emergency Managment Agency" for "Director of the Office of Emergency Planning" in Sections 1(a), 1(c), and 6(b); and, (b) substituting "Federal Emergency Management Agency" for "Office of Emergency Planning" in Sections 6(b) and 7(b).

5–202. Executive Order No. 10480, as amended, is further amended by (a) substituting "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 101(a), 101(b), 201(a), 201(b), 301, 304, 307, 308, 310(b), 311(b), 312, 313, 401(b), 401(e), and 605; and, (b) substituting "Director of the Federal Emergency Management Agency" for "Administrator of General Services" in Section 610.

5–203. Section 3(d) of Executive Order No. 10582, as amended, which relates to determinations under the Buy American Act is amended by deleting "Director

of the Office of Emergency Planning" and substituting therefor "Director of the Federal Emergency Managment Agency".

5–204. Paragraph 21 of Executive Order No. 10789, as amended, is further amended by adding "The Federal Emergency Management Agency" after "Government Printing Office".

5–205. Executive Order No. 11179, as amended, concerning the National Defense Executive Reserve, is further amended by deleting "Director of the Office of Emergency Planning" in Section 2 and substituting therefor "Director of the Federal Emergency Management Agency".

5–206. Section 7 of Executive Order No. 11912, as amended, concerning energy policy and conservation, is further amended by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5–207. Section 2(d) of Executive Order No. 11988 entitled "Floodplain Mangement" is amended by deleting "Federal Insurance Administration" and substituting therefor "Director of the Federal Emergency Management Agency".

5–208. Section 5–3 of Executive Order No. 12046 of March 29, 1978, is amended by deleting *"General Services Administration"* and substituting therefor *"Federal Emergency Management Agency"* and by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5–209. Section 1–201 of Executive Order No. 12065 is amended by adding "The Director of the Federal Emergency Management Agency" after "The Administrator, National Aeronautics and Space Administration" and by deleting "Director, Federal Preparedness Agency and to the" from the parentheses after "The Administrator of General Services".

5–210. Section 1–102 of Executive Order No. 12075 of August 16, 1978, is amended by adding in alphabetical order "(p) Federal Emergency Management Agency".

5–211. Section 1–102 of Executive Order No. 12083 of September 27, 1978 is amended by adding in alphabetical order "(x) the Director of the Federal Emergency Management Agency".

5–212. Section 9.11(b) of Civil Service Rule IX (5 CFR Part 9) is amended by deleting "the Defense Civil Preparedness Agency and".

5–213. Section 3(2) of each of the following described Executive orders is amended by adding "Federal Emergency Management Agency" immediately after "Department of Transportation".

(a) Executive Order No. 11331 establishing the Pacific Northwest River Basins Commission.

(b) Executive Order No. 11345, as amended, establishing the Great Lakes Basin Commission.

(c) Executive Order No. 11371, as amended, establishing the New England River Basins Commission.

(d) Executive Order No. 11578, as amended, establishing the Ohio River Basin Commission.

(e) Executive Order No. 11658, as amended, establishing the Missouri River Basin Commission.

(f) Executive Order No. 11659, as amended, establishing the Upper Mississippi River Basin Commission.

5–214. Executive Order No. 11490, as amended, is further amended as follows:

(a) Delete the last sentence of Section 102(a) and substitute therefor the following: "The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance

with guidance provided by, and subject to, evaluation by the Director of the Federal Emergency Management Agency.".

(b) Delete Section 103 entitled "Presidential Assistance" and substitute the following new Section 103: *"Sec. 103 General Coordination.* The Director of the Federal Emergency Management Agency (FEMA) shall determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs.".

(c) Delete the portion of the first sentence of Section 401 prior to the colon and insert the following: "The Secretary of Defense shall perform the following emergency preparedness functions".

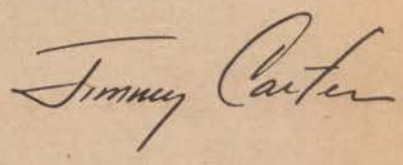
(d) Delete "Directior of the Federal Preparedness Agency (GSA)" or "the Federal Preparedness Agency (GSA)" and substitute therefor "Director, FEMA", in Sections 401(3), 401(4), 401(5), 401(9), 401(10), 401(14), 401(15), 401(16), 401(19), 401(21), 401(22), 501(8), 601(2), 904(2), 1102(2), 1204(2), 1401(a), 1701, 1702, 2003, 2004, 2801(5), 3001, 3002(2), 3004, 3005, 3006, 3008, 3010, and 3013.

(e) The number assigned to this Order shall be substituted for "11051 of September 27, 1962" in Section 3001, and for "11051" in Sections 1802, 2002(3), 3002 and 3008(1).

(f) The number assigned to this Order shall be substituted for "10952" in Sections 1103, 1104, 1205, and 3002.

(g) Delete "Department of Defense" in Sections 502, 601(1), 804, 905, 1103, 1104, 1106(4), 1205, 2002(8), the first sentence of Section 3002, and Sections 3008(1) and 3010 and substitute therefor "Director of the Federal Emergency Management Agency.".

Section 6. This Order is effective July 15, 1979.



THE WHITE HOUSE,
July 20, 1979.

[FR Doc. 79-22915
Filed 7-20-79; 2:18 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12149 of July 20, 1979

Federal Regional Councils

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to provide a structure for interagency and intergovernmental cooperation, it is hereby ordered as follows:

1–1. *Establishment of Federal Regional Councils.*

1–101. There is hereby continued a Federal Regional Council for each of the ten standard Federal regions (Office of Management and Budget Circular No. A–105).

1–102. Each Council shall be composed of a representative designated by the head of each of the following agencies:

(a) The Department of the Interior.

(b) The Department of Agriculture.

(c) The Department of Commerce.

(d) The Department of Labor.

(e) The Department of Health, Education, and Welfare.

(f) The Department of Housing and Urban Development.

(g) The Department of Transportation.

(h) The Department of Energy.

(i) The Environmental Protection Agency.

(j) The Community Services Administration.

(k) The Office of Personnel Management.

(l) The General Services Administration.

(m) ACTION.

(n) The Small Business Administration.

(o) The Federal Emergency Management Agency.

(p) The U.S. Army Corps of Engineers.

(q) The Regional Action Planning Commissions.

1–103. The President shall designate one member of each Council to be Chairman. The Chairman may convene an Executive Committe to carry out specific initiatives of the Council.

1–104. Each member of each Council shall be a principal official in the region at the Administrator, Director, Secretarial Representative, or equivalent level. For the Regional Action Planning Commissions (established pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3181 *et seq.*)) the Federal cochairman shall serve as the Council member. Representatives of the Office of Management and Budget shall participate in the deliberations of each Council.

1–105. Each member of each Council shall designate an alternate to serve whenever the regular member is unable to attend any meeting of the Council. The alternate shall be a principal official in the Region at the deputy or equivalent level, or the head of an operating unit of the agency.

1–106. When a Chairman determines that matters which significantly affect the interests of agencies which are not represented on the Council are to be considered by that Council, the Chairman shall request the regional director or other appropriate representative of the affected agency to participate in the deliberations of the Council.

1–2. *Federal Regional Council Functions.*

1–201. The Federal Regional Council, as the major interagency mechanism in the field, shall ensure that Federal programs are implemented in a manner which is consistent with overall Government policy, and shall be responsive to State, tribal, regional, and local government concerns.

1–202. Each Council shall develop a mechanism for sharing information about major agency decisions or actions among agencies in the field, and shall ensure a timely and consistent Federal response to State, tribal, regional, and local concerns or inquiries about such actions.

1–203. Each Council shall establish practical and appropriate liaison functions with State, tribal, regional, and local officials, and shall implement regular procedures to inform elected officials about Government policies and initiatives.

1–204. Each Council shall attempt to identify significant problems with Federal policies and actions and, if such problems cannot be resolved in the Region, refer such problems to the appropriate agencies and the Interagency Coordinating Council.

1–3. *General Provisions.*

1–301. The Interagency Coordinating Council, in conjunction with the Office of Management and Budget shall, consistent with the objectives and priorities established by the President, establish policy with respect to Federal Regional Council matters, provide guidance to the Councils, respond to their initiatives and seek to resolve policy issues referred to it by the Councils. The Interagency Coordinating Council shall also provide policy guidance to the Federal Cochairmen of the Regional Action Planning Commissions on intergovernmental matters pertaining to activities undertaken by the Federal Regional Councils.

1–302. The Office of Management and Budget shall provide direction for and oversight of the implementation by the Councils of Federal management improvement actions and of Federal aid reforms.

1–303. Each Agency represented on a Council shall provide, to the extent permitted by law, appropriate staff for common or joint interagency task forces as requested by the Federal Regional Council Chairman or by the Interagency Coordinating Council.

1–304. Each Council member shall be provided administrative support by the member's agency.

1–305. Administrative support required by the Council shall be provided by the Chairman's agency.

1–306. The Federal Regional Councils are encouraged to work with Federal Executive Boards, Federal Executive Associations, River Basin Commissions, Regional Councils of Government, and other similar organizations in the Region.

1–307. Executive Order No. 11647, as amended, is revoked.

Jimmy Carter

THE WHITE HOUSE,
July 20, 1979.

[FR Doc. 79–22972
Filed 7–20–79; 4:26 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 44, No. 143
Tuesday, July 24, 1979

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 295

Public Observation of Commission Meetings

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Part 295 is being eliminated in its entirety as a technical change to conform with applicable provisions of the Civil Service Reform Act of 1978 (Pub. L. 95–454) and Reorganization Plan No. 2 of 1978 (43 FR 36037) to reflect the organization of the Office of Personnel Management and the inapplicability of the "Government-in-the-Sunshine Act" (Pub. L. 94–409, 5 U.S.C. § 552b) to its functions.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Llewellyn M. Fischer, Office of General Counsel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, (202) 632–5524.

SUPPLEMENTARY INFORMATION: By section 201 of Reorganization Plan No. 2 of 1978 (43 FR 36037) the United States Civil Service Commission was redesignated the Merit Systems Protection Board. Section 101 of the Plan established the Office of Personnel Management headed by a single Director. The Civil Service Reform Act of 1978 (Pub. L. 95–454) provided for parallel organizational structures at sections 202 and 201, respectively.

The Government-in-the-Sunshine Act (5 U.S.C. 552b) by its terms applies only to collegial bodies composed of two or more members, a majority of whom are appointed to such positions by the President with the advice and consent of the Senate. (5 U.S.C. 552b(a)(1)). Since the Office of Personnel Management is headed by a single Director, the Act is inapplicable to its meetings and the regulations at Part 295 are unnecessary.

PART 295 [REMOVED]

Accordingly, the Office of Personnel Management is hereby amending 5 CFR Part 295 by eliminating that Part from its regulations.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-22718 Filed 7-23-79; 8:45 am]

BILLING CODE 6325-01-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 706

Noninflationary Pay and Price Behavior; Notice of Modification of Request for Submission of Form PM–1

AGENCY: Council on Wage and Price Stability.

ACTION: Modification of Request for Submission of Form PM–1 for the Third Quarter of the Program Year.

SUMMARY: On July 16, 1979, the Council requested that by August 1, 1979, any company that had, or is part of a parent company that had, consolidated net sales or revenues of $250 million or more in its last complete fiscal year prior to October 2, 1978, submit a completed Form PM–1 for each of its compliance units ("companies") for the third quarter of the program year (44 FR 41169). The August 1 date was set on the assumption that forms would be printed and mailed to companies on the Council's mailing list by July 16. Due to a delay in mailing, however, the deadline for filing has been extended to August 10, 1979.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Ann Marie Hummel, Office of Price Monitoring, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506, (202/456–7107).

Issued in Washington, D.C. July 18, 1979.

Barry Bosworth,

Director, Council on Wage and Price Stability.

[FR Doc. 79-22766 Filed 7-23-79; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[Amdt. No. 148]

Requirements for Participating State Agencies; Alaska, Postponement of Implementation of Certain Provisions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This rulemaking amends the regulations published October 17, 1978 (43 FR 47846) which implemented certain provisions of the Food Stamp Act of 1977. The amendment allows the Alaska State agency to postpone implementation of certain provisions of the regulations beyond the initial 120-day extension granted under the October 17 rules. This postponement is being granted to allow for the orderly development of regulations specifically tailored to the unique geographic and economic characteristics found in certain areas of Alaska.

EFFECTIVE DATE: This regulation is effective on July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division on (202) 447–8325.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Department published final rules implementing major aspects of the Food Stamp Act of 1977. These rules included an implementation time schedule for program changes necessitated by the rulemaking. For certain rules, FNS established a procedure whereby extensions to the implementation schedule could be obtained. These procedures required State agencies to submit both compelling justification for the delay and an acceptable alternative schedule for implementation. Subsequent to this rulemaking, the Alaska State agency contacted FNS with serious concerns about their ability

to meet the established time schedule for implementation of several program changes. They further contended that full compliance with all program requirements would neither be practical nor possible in certain rural areas, regardless of the time frame allowed for implementation. Convincing arguments, based on weather conditions, economic circumstances, and the inaccessibility of such rural areas, were presented to FNS. In light of these factors, it was decided that specific regulations, tailored to the conditions existent in rural Alaskan communities, would be developed. These regulations would modify the October 17 regulations to ensure the efficiency of program operations and the timely availability of program benefits to low-income populations in these rural areas. The Department is currently in the process of developing these regulations and they will be published in proposed form shortly.

As an interim measure, FNS granted the Alaska State agency an extension until July 1, 1979, for implementation of certain provisions of the October 17 regulations. While it was hoped that rulemaking could be developed by this date, this has not proven feasible. As a second interim measure, this amendment further extends the implementation time schedule for those provisions which cannot be implemented in rural Alaska.

The amendment provides that, at the discretion of FNS, the Alaska State agency will be allowed to continue to postpone implementation of a few provisions of the October 17 regulations. It should be noted that, with these one or two exceptions, Alaska has fully implemented the provisions of the October 17 regulations, including the major features such as elimination of the purchase requirement, and the new eligibility rules. The provision for which extensions may be continued concern primarily processing requirements and affect only isolated areas of rural Alaska. Because of the limited scope of the provisions being extended and the relatively small numbers of people affected, this regulation is being issued as a final rulemaking. Robert Greenstein, Administrator, Food and Nutrition Service, has determined that the substantive aspects of the manner in which Alaska will implement the Food Stamp Act of 1977 will be part, not of this rulemaking, but of a separate rulemaking which will be issued for full public comment.

Therefore, in Part 272, in § 272.1 paragraph (g) is amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

In § 272.1, subparagraph (g)(x) is amended to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) Implementation * * *

(x) Elimination of the purchase requirement and the implementation of the basic financial and nonfinancial eligibility criteria and other coupon issuance criteria shall not be extended for any reason. FNS may grant extensions for other provisions contained in these rules, provided that the State agency presents compelling justification for a delay and establishes an acceptable alternative schedule in advance of the implementation deadline. With the following exception, FNS will not grant extensions in excess of 120 days from the specified implementation date. FNS may grant the Alaska State agency an extension in the inplementation of certain specific provisions subject to the unique economic and geographic characteristics existent with the State to the date necessary to allow for the orderly promulgation and implementation of rulemaking designed to accommodate these characteristics. In all cases where extensions are granted, the relevant Department regulations under the Food Stamp Act of 1964, shall remain in effect until superseded by implementation of the new rules.

(91 Stat. 958 7 U.S.C., 2011–2027)

Note.—Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Carol Tucker Foreman, Assistant Secretary, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Dated: July 13, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79-22351 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 916

[Nectarine Reg. 11, Amt.1]

Nectarines Grown In California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: Nectarine Regulation 11 currently in effect through July 25, 1979, specifies a U.S. No. 1 minimum grade for shipments of California nectarines except (1) fairly light colored, fairly smooth scars shall not exceed the aggregate area of a circle ⅜ inch in diameter for nectarines 2 inches or smaller, and ½ inch for nectarines larger than 2 inches; and (2) an additional 25 percent tolerance for fruit not well formed but not badly misshapen. In addition, the regulation prescribes minimum sizes for 50 named varieties. This amendment continues through May 31, 1980, these current minimum grade and size requirements. The amendment takes into consideration the marketing situation facing the California nectarine industry, and is necessary to assure that shipments of nectarines will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATES: July 26, 1979 through May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: Nectarine Regulation 11 was published in the **Federal Register** on May 22, 1979 (44 F.R. 29641). On June 5, 1979, a proposal was issued (44 F.R. 32224) to extend the regulatory provisions through May 31, 1980. The notice allowed interested persons until July 9, 1979, to submit written comments pertaining to the proposed amendment. No such material was submitted.

The proposal was recommended by the Nectarine Administrative Committee established under the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916). The marketing agreement and order regulate the handling of nectarines grown in California and are effective under the applicable provisions of the Agricultural

Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with the marketing agreement and order and will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of nectarines are currently in progress and this amendment should be applicable to all such nectarines shipments in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. The provisions of Nectarine Regulation 11 (§ 916.353; 44 F.R. 29641) are revised to read as follows:

§ 916.353 Nectarine Regulation 11.

(a) During the period July 26, 1979, through May 31, 1980, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grades: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle ⅜ inch in diameter and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box; are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box:

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (3) of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(4) Any package or container of Apache, Armking, Crimson Gold, Early Red, Early Star, Early Sungrand, Firebrite, Independence, June Belle, June Grand, Kent Grand, May Grand, Moon Grand, Red Diamond, Red June, Spring Grand, Spring Red, Star Grand I, Star Grand II, Summer Grand, Sun Grand, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(5) Any package or container of Autumn Grand, Bob Grand, Clinton Strawberry, Ed's Red, Fairlane, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Free, Red Grand, Regal Grand, Richards Grand, Royal Giant, Royal Grand, Ruby Grand, September Grand, Tasty Free, Tom Grand, or 61–61 variety nectarines, unless:

(i) Such nectarines when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(b) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of Nectarines (7 CFR 2851.3145–3160); "No. 22D standard lug box" means the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in this marketing order.

An economic impact statement is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C., Phone: (202) 447–5975.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 19, 1979, to become efective July 26, 1979.

D. S. Kuryloski

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22763 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 919

[Peach Reg. 19]

Fresh Peaches Grown in Mesa County, Colo.; Grade and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for 1979 season shipments of fresh peaches grown in Mesa County, Colorado. These requirements are designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in the county of Mesa in the State of Colorado, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of peaches, as hereafter provided, will tend to effectuate the declared policy of the act.

The following regulations reflect the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions.

The grade and size requirements are necessary to prevent the shipment of

Colorado peaches of a lower grade and a smaller size than specified, and are designed to provide ample supplies of good quality peaches in the interest of producers and consumers pursuant to the declared policy of the act. These requirements would be the same as those in effect during the past several seasons.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447–5975.

§ 919.320 Peach Regulation 19.

(a) During the period August 1, 1979, through September 15, 1979, no handler shall ship:

(1) Any peaches of any variety which do not grade at least U.S. No. 1;

(2) Any peaches of any variety which are of a size smaller than 2⅛ inches in diameter: *Provided,* That any lot of peaches shall be deemed to be of a size not smaller than 2⅛ inches in diameter if (i) not more than 10 percent, by count, of such peaches in such lot are smaller than 2⅛ inches in diameter, and (ii) not more than 15 percent, by count, of the peaches contained in any individual container in such lot are smaller than 2⅛ inches in diameter.

(b) As used in this section, "peaches", "handler", "ship", and "variety" mean the same as defined in this marketing order, and "U.S. No. 1", "diameter", and "count" mean the same as defined in the United States Standards for Peaches (7 U.S.C. 2851.1210–2851.1223).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: July 19, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22762 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Canned Freestone Peaches

Correction

In FR Doc. 79–19547 appearing on page 36363 in the issue for Friday, June 22, 1979, make the following corrections:

(1) In the second column of page 36366, in the first line of paragraph (c)(1) of § 2852.2608, change "...X_d..." to read "...$\overline{X}_d$...".

(2) In the first column of page 36368, in paragraph (1) of § 2852.2608 (d), four lines from the top of the page, change "...X_d..." to read "...$\overline{X}_d$...".

(3) Also in the first column, in paragraph (c) of § 2852.2609 correct the following:

Change "...X'G2MIN..." to read "...$\overline{X'}_{min}$...".

Change "...LWL_x..." to read "...$LWL_{\bar{x}}$...".

Change "...LRL_x..." to read "...$LRL_{\bar{x}}$...".

Change "...R'..." to read "...$\overline{R'}$...".

DEPARTMENT OF TREASURY

Comptroller of the Currency

12 CFR Part 12

Recordkeeping and Confirmation Requirements for Certain Transactions Effected by National Banks

AGENCY: Comptroller of the Currency.

ACTION: Final rule and request for comments on certain provisions.

SUMMARY: The Comptroller of the Currency ("Comptroller") has adopted regulations under Part 12 to require national banks to establish uniform procedures and records relating to the handling of securities transactions for trust department accounts and for customers. Similar regulations are also being adopted by the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation. The final rules in part reflect the recommendations of the Securities and Exchange Commission's Final Report on Bank Securities Activities. The regulation requires each national bank that effects certain securities transactions for customers to maintain and comply with specified recordkeeping and confirmation requirements. Also, every national bank effecting securities transactions for customers must establish written policies and procedures concerning securities transactions by and for specified categories of bank personnel. Although it is intended that these amendments become effective January 1, 1980, additional comment is invited by September 24, 1979, on the confirmation requirements as they apply to transactions in U.S. Government, Federal agency, and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. Government or Federal agency obligations. The Comptroller will consider such comments and the adoption of any appropriate amendments to the regulation as soon thereafter as possible.

DATES: Comments must be received on or before September 24, 1979. Effective date: January 1, 1980.

ADDRESS: Send comments to Dean E. Miller, Deputy Comptroller for Specialized Examinations, Office of the Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Dean E. Miller, (202) 447–1731.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal drafter of this ruling is Ralph Janvey, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219.

On Tuesday, February 7, 1978, the Comptroller published in the **Federal Register** (43 FR 5004) proposed rules to require national banks to establish uniform procedures and records relating to the handling of securities transactions for trust department accounts and for customers. The Comptroller received over 200 comment letters with a substantial number setting forth significant criticisms of the proposed amendments. As a result of careful consideration of the comment letters, the Comptroller on November 1, 1978 published in the **Federal Register** revised amendments for additional comment (43 FR 50917).

In response to the November, 1978 republication, the Comptroller received 39 comment letters. While many of the commentators commended the Comptroller for the revised amendments, they also suggested additional modifications and amendments. A summary of the

comments and the Comptroller's response is as follows:

1. In the November 1, 1978 proposal, the definition of "periodic plan" included any written authorization for a national bank acting as agent to purchase or sell for a customer a specific security or securities in specific amounts. (See proposed § 12.2(d).) A few commentators believed that the proposed definition was ambiguous as to whether dividend reinvestment plans, automatic investment plans and employee stock purchase plans were covered by the definition. To clear up any doubt about the definition's coverage, the Comptroller has modified the definition of "periodic plan" as set forth in § 12.2(d) to indicate that the definition includes dividend reinvestment plans, automatic investment plans and employee stock purchase plans.

2. The Comptroller in its November proposal excluded from the definition of "security" any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance not exceeding nine months. Some commentators recommended that the definition be revised to exclude short term obligations for up to twelve months and to also exclude from the definition interests in money market mutual funds. The Comptroller has adopted the definition as proposed. The Comptroller recognizes that banks generally define short-term obligations as those having a maturity of twelve months or less. However, the Comptroller believes that it would be inappropriate to significantly alter the definition of "security" contained in the Securities Exchange Act of 1934 ("1934 Act") which provides an exclusion for certain obligations of up to nine months maturity. Since commentators did not demonstrate that potential costs to banks would outweigh the benefits to the investing public, the Comptroller has decided to retain the nine months maturity exclusion. For the same reason, the Comptroller has decided not to exclude money market mutual funds from the definition of "security." It is the Comptroller's understanding that the major problem with subjecting money market mutual funds to the requirements of Part 12 involves the potential costs involved in recordkeeping. In response, and as discussed below, the Comptroller has modified the recordkeeping requirements to lessen the potential cost impact on banks.

3. As proposed a bank would be deemed to exercise "investment discretion" with respect to an account, if directly or indirectly, the bank makes recommendations as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions. A number of commentators suggested that the definition be modified to track the language of Section 3(a)(35) of the 1934 Act. Upon reflection, and in response to the commentators, the Comptroller has adopted a definition that follows the language of the 1934 Act section. The Comptroller notes, however, that the change in the language of the definition of "investment discretion" does not alter its view that a bank would be deemed to exercise investment discretion in investment advisory account relationships where the customer, as a matter of practice, generally approves investment recommendations made by the bank.

4. Section 12.3, Recordkeeping, requires that a bank maintain an account record for each customer. A number of commentators believed that the maintenance of account records for each customer would result in prohibitive costs to the bank. In response, the Comptroller has added a provision stating that the requirements of § 12.3 do not require a bank to maintain records in any prescribed manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information. Also, the requirements have been amended to provide that a single order may be used for multiple account transactions (e.g. a purchase of securities of a money market fund for several accounts at the same time).

5. As proposed, § 12.4(b)(4) required that the written notification every national bank must mail or otherwise furnish to a customer include the time of execution of the transaction. A number of banks commented that this information was not always readily available. In response, the Comptroller has amended § 12.4(b)(4) to delete the requirement that the time of execution be set forth in the written notification and to require instead that the form set forth the date of execution and include a statement that the time of execution will be furnished within a reasonable time upon written request of the customer.

6. The Securities and Exchange Commission ("SEC") questioned the provision in the revised proposal that would have excluded transactions in U.S. government, federal agency, and municipal obligations from the confirmation requirements. During the period that the Comptroller was considering the revised proposal, the SEC amended its confirmation rule for brokers and dealers setting forth requirements applicable to both dealer and agency transactions in equity and debt securities, other than U.S. Savings Bonds and municipal securities (Securities Exchange Act Release No. 34–15219). The SEC also solicited additional comment as to whether disclosure should be required on confirmation of mark-ups and mark-downs on "riskless principal" transactions in non-municipal debt securities and municipal securities. (Securities Exchange Act Release No. 34–15220.) The SEC also solicited comment as to whether a "market-maker" exemption similar to that provided for dealers in equity securities should also be provided for dealers in municipal securities and non-municipal debt securities. In view of the significant controversy concerning the SEC's proposed disclosure requirements for "'riskless principal" transactions, the Comptroller's revised proposal excluded, in toto, transactions in U.S. government, agency and municipal securities from the proposed confirmation requirements. Upon further examination, the Comptroller believes that it would not impose an undue hardship and would be consistent with investor protection to apply the confirmation rules to transactions in U.S. government securities (other than U.S. Savings Bonds), federal agency obligations and municipal securities (where the bank is not already required to comply with rules of the Municipal Securities Rulemaking Board), but that the rules should not operate at the present time to require banks to disclose mark-ups, mark-downs and other remuneration where the bank executes transactions in U.S. government, federal agency or municipal obligations in a dealer capacity. The Comptroller notes that further study of the issue appears necessary, particularly on the question as to the type of market maker exception that should be provided if a "riskless principal" requirement along the lines proposed by the SEC is to be adopted for bank dealers. The public is invited to submit their views to the Comptroller on these questions, on or before September 24, 1979.

7. The Comptroller, after much consideration, has retained the requirement of having a bank mail or otherwise furnish a written notification within five business days from the date of transaction, or if a broker/dealer is utilized, within five business days from the receipt by the bank of the broker/dealer's confirmation. The Comptroller believes that the confirmation is an

important disclosure document and requiring banks to disclose facts to customers at or before the completion of the transaction, will help correct errors and mistakes, and deter and prevent deceptive and fraudulent acts and practices.

8. Section 12.5(a) allows a bank and a customer of a nondiscretionary account to agree in writing to a different time of notification than set forth in § 12.5. The SEC, in commenting on the proposed rules, pointed out that their rules do not permit such a waiver and expressed concern about the use of "boiler-plate" clauses in agreements with customers. While the Comptroller has retained the waiver provision, banks and the public should be aware that the examination process will be utilized to ensure that "boiler-plate" clauses are not being used or forced on the public. If such abuses are found, appropriate supervisory and regulatory action will be taken.

9. A number of commentators objected to the language of § 12.6(d) relating to disclosure of personal transactions by certain bank personnel stating that proposed regulation was overly broad and burdensome. The Comptroller has revised § 12.6(d) to require that bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the Bank, within ten days after the end of the calendar quarter, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest. The report would identify the securities purchased or sold, the dates of the transactions and whether the transactions were purchases or sales. Excluded from this reporting requirement are transactions for the benefit of the officer or employee over which such officer or employee has no direct or indirect influence or control, transactions in mutual fund shares and all transactions involving in the aggregate $10,000 or less in principal amount during the quarter.

The Comptroller believes the requirements of § 12.6(d) are important in preventing the improper and illegal use of inside information by a bank employee such as "scalping," which is the practice of effecting transactions for a personal account shortly before effecting transactions in the same or a related class of securities for customers, usually followed thereafter, by further transactions for the personal account in order to profit by the resultant market activity. Where reports indicate the possibility of misuse of insider information, the Comptroller will expect national banks to obtain such additional information as may be necessary to apprise themselves whether the employee, or any other person, has not misused nonpublic information for his own enrichment.

10. In the November, 1978 release, the Comptroller requested the views of interested persons as to regulations respecting personnel training and competency requirements. In response, the SEC urged that the Comptroller adopt regulations and testing requirements in this area. The Comptroller believes that the bank examination process, which involves checking the adequacy of a bank's procedures for training of trading personnel and evaluating their competency, as well as the adequacy of the bank's supervisory procedures over them, is effective in detecting and remedying violations of law and personnel weaknesses within a bank. The Comptroller is constantly educating and updating the knowledge of bank examiners as to the requirements of the Federal securities laws. At this time, the Comptroller will continue to rely upon the examination process to assure an appropriate level of competency of bank personnel concerning the Federal securities laws. However, if the Comptroller discovers, through the examination process or any other means, that numerous and/or gross violations of the Federal securities laws are occurring, the issue of requiring personnel training and competency requirements will be reconsidered promptly.

Based on the foregoing, 12 CFR Part 12 is adopted as set forth below:

PART 12—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Sec.
12.1 Scope of Part.
12.2 Definition.
12.3 Recordkeeping.
12.4 Form of notification.
12.5 Time of notification.
12.6 Securities trading policies and procedures.
12.7 Exceptions.

Authority: 12 U.S.C. 24 and 12 U.S.C. 92a.

§ 12.1 Scope of part.

This part is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 24 and 12 U.S.C. 92a and contains rules applicable to recordkeeping and confirmation requirements for certain transactions effected by national banks.

§ 12.2 Definitions.

For the purposes of this part:

(a) "Collective investment fund" means any fund as defined in 12 CFR 9.18(a).

(b) "Customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee, or other fiduciary account for which a national bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are subject to the transactions.

(c) A bank shall be deemed to exercise "investment discretion" with respect to an account, if directly or indirectly the bank (1) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (2) makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

(d) "Periodic plan" (including dividend reinvestment plans, automatic investment plans and employee stock purchase plans) means any written authorization for a national bank acting as agent to purchase or sell for a customer a specific security or securities, in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals and setting forth the commission or charges to be paid by the customer in connection therewith or the manner of calculating them.

(e) "Security" means any interest or instrument commonly known as a "security," whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence or indebtedness or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include (1) a deposit or share account in a federally or state insured depository institution, (2) a loan participation, (3) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (4) currency, (5) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (6) units of a collective investment fund, (7) interests in a variable amount (master) note as

defined in 12 CFR 9.18(c)(2)(ii), or (8) U.S. Savings Bonds.

§ 12.3 Recordkeeping.

Every national bank effecting securities transactions for customers shall maintain the following records with respect to such transactions for at least three years:

(a) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. The records of original entry shall show the account or customer for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(b) Account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all receipts and disbursements of cash with respect to transactions in securities for such account and all other debits and credits pertaining to transactions in securities;

(c) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(1) The account(s) for which the transaction was effected;

(2) Whether the transaction was a market order, limit order, or subject to special instructions;

(3) The time the order was received by the trader or other bank employee responsible for effecting the transaction;

(4) The time the order was placed with the broker/dealer, of if there was no broker/dealer, the time the order was executed or cancelled;

(5) The price at which the order was executed; and

(6) The broker/dealer utilized.

(d) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each such broker during the calendar year.

Nothing contained in this subparagraph shall require a bank to maintain the records required by this section in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information.

§ 12.4 Form of notification.

Every national bank effecting a securities transaction for a customer shall maintain for at least three years and except as provided in 12 CFR 12.5, shall mail or otherwise furnish to such customer either of the following types of notifications:

(a)(1) A copy of the confirmation of a broker/dealer relating to the securities transactions; and (2) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a written agreement between the bank and the customer, a statement of the source and amount of any remuneration to be received; or

(b) A written notification disclosing:

(1) The name of the bank;

(2) The name of the customer;

(3) Whether the bank is acting as agent for such customer, as agent for both such customer and some other person, as principal for its own account, or in any other capacity;

(4) The date of execution and a statement that the time of execution will be furnished within a reasonable time upon written request of such customer and the identity, price and number of shares or units (or principal amount in the case of debt securities) of such security purchased or sold by such a customer;

(5) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from such customer in connection with the transaction;

(6) The amount of any remuneration received or to be received by the bank from the customer and the source and amount of any other remuneration to be received by the bank in conection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer, provided, however, in the case of U.S. Government securities, federal agency obligations and municipal obligations, this subparagraph (b)(6) shall apply only with respect to remuneration received by the bank in an agency transaction; and

(7) The name of the broker/dealer utilized; or where there is no broker/dealer, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

§ 12.5 Time of notification.

The time for mailing or otherwise furnishing the written notification described in 12 CFR 12.4 shall be five business days from the date of the transaction, or if a broker/dealer is utilized, within five business days from the receipt by the bank of the broker/dealer's confirmation, but the bank may elect to use the following alternative procedures if the transaction is effected for:

(a) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customer;

(b) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge such person a reasonable fee for providing this information;

(c) Accounts where the bank exercises investment discretion in an agency capacity, in which instance (1) the bank shall mail or otherwise furnish to each customer not less frequently than once every three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period, and (2) if requested by the customer, the bank shall mail or otherwise furnish to each customer within a reasonable time the written notification described in 12 CFR 12.4;

(d) A collective investment fund, in which instance the provision of 12 CFR 9.18(b)(5) shall apply;

(e) A periodic plan, in which instance the bank shall mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the trans-action, and all other debits and credits of the customer's account involved in the transaction; provided that upon the written request of the customers the bank shall furnish the information described in 12 CFR 12.4, except that any such information relating to remuneration paid in connection with the transaction need not be provided to the customer when paid by a source

other than the customer. The bank may charge a reasonable fee for providing this information.

§ 12.6 Securities trading policies and procedures.

Every national bank effecting securities transactions for customers shall establish written policies and procedures providing:

(a) Assignment of responsibility for supervision of all officers or employees who: (1) transmit orders to or place orders with broker/dealers, or (2) execute transactions in securities for customers;

(b) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(c) Where applicable, and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(d) That bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest. The report shall indentify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and all transactions involving in the aggregate $10,000 or less in principal amount during the quarter.

§ 12.7 Exceptions.

The following exceptions to this Part shall apply:

(a) The requirements of 12 CFR 12.3(b) through 12 CFR 12.3(d) shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three calendar year period;

(b) Activities of national banks that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of 12 CFR Part 12;

(c) Activities of foreign branches of a national bank shall not be subject to the requirements of 12 CFR Part 12; and

(d) In appropriate cases, the Comptroller of the Currency may waive one or more of the requirements set fourth in 12 CFR 12.2, 12 CFR 12.3, 12 CFR 12.4, 12 CFR 12.5 and 12 CFR 12.6, either in whole or in part.

Dated: June 26, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-22686 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R-0142]

Recordkeeping and Confirmation Requirements for Certain Securities Transactions Effected by State Member Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule and request for comments on certain provisions.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted amendments to its Regulation H (12 CFR Part 208) to require that State member banks that effect certain securities transactions for customers provide confirmation of and maintain records with respect to such transactions. Similar regulations are being adopted by the Comptroller of the Currency and the Federal Deposit Insurance Corporation. A proposed regulation was originally published for public comment on January 31, 1978 (43 FR 5006); a substantial number of substantive comments were received and comment was requested on a revised proposal on November 1, 1978 (43 FR 50914). Although it is intented that these amendments become effective January 1, 1980, additional comment is invited by September 24, 1979 on the confirmation requirements as they apply to transactions in U.S. government, federal agency and municipal securities (paragraph (k)(3) and on the bank officers and employees reporting requirements as they apply to transactions in U.S. government or federal agency obligations (paragraph (k)(5)(iv)). The Board will consider such comments and the adoption of any appropriate amendments to the regulation as soon thereafter as possible.

DATES: Comments must be received on or before September 24, 1979.

EFFECTIVE DATE: January 1, 1980.

ADDRESS: Send comments to the Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, N.W., Washington, D.C. 20551. All materials submitted should be in writing and should refer to Docket No. R-0142. Such materials will be available for public inspection during the regular hours of the Office of the Secretary at the above address.

FOR FURTHER INFORMATION CONTACT: Robert A. Wallgren, Chief, Trust Activities Program, (202) 452-2717, or Walter R. McEwen, Attorney, (202) 452-2521, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The final rule is substantially similar to the revised proposal released on November 1, 1978. The following is a summary of the significant revisions which were made.

Commentators suggested that the definition of "investment discretion" be modified to track the language of section 3(a)(35) of the Securities Exchange Act of 1934 ("1934 Act") which defines the same term. After reconsideration, the Board has concluded that, insofar as it is pertinent, the term should be defined in Regulation H as it is defined in the 1934 Act. Accordingly, the language of subparagraph (k)(1)(iii) now tracks the language of sections 3(a)(35) (A) and (B) of the 1934 Act. If the Securities and Exchange Commission determines pursuant to regulation, as authorized by paragraph (C) of section 3(a)(35), that other exercises of influence with respect to accounts constitute "investment discretion," the Board will consider whether the definition of "investment discretion" adopted herein should be revised also. The Board notes, however, that the change in the language of the definition of "investment discretion" is not intended to alter its view that a bank would be deemed to exercise investment discretion in investment advisory account relationships where the customer, as a matter of practice, generally follows investment recommendations made by the bank.

With respect to the definition of "security", numerous amendments were suggested. In particular, it was recommended that the definition be revised to exclude short-term obligations of up to twelve-month maturities and interests in money

market mutual funds. The Board has determined that the definition of "security" should not be changed from the definition stated in the revised proposal, except to exclude U.S. savings bonds from the definition. The Board recognizes that banks generally define short-term obligations as those having a maturity of twelve months or less. However, the Board believes that it would be inappropriate to alter the definition of "security" contained in the Securities Exchange Act of 1934 which provides an exclusion for certain obligations of up to nine months maturity. Since commentators failed to demonstrate that the potential cost to banks would outweigh the benefits to the investing public, the Board has determined to retain the nine months maturity exclusion. For the same reason, The Board has decided not to exclude money market mutual funds from the definition of "security" but, as indicated below, has modified the recordkeeping requirements to lessen the potential cost impact. Furthermore, the Board noted that transactions in money market fund shares derive primarily from accounts over which the banks exercise investment discretion and therefore are not required to be confirmed on an individual basis except upon customer request (paragraphs (k)(4)(ii) and (k)(4)(iii).

With respect to the recordkeeping requirements (paragraph (k)(2)), the Board has responded to comments expressing the concern that the cost of compliance would be excessive due to the requirement of (k)(2)(ii) that an account record be maintained for each customer. The Board anticipates that this provision will impact customer accommodation transactions rather than trust activities since trust departments presently keep the records required by (k)(2)(ii). Accordingly, a provision has been added stating that paragraph (k)(2) does not require a bank to maintain the records required by the paragraph in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information. In addition, subparagraph (k)(2)(iii)(a) has been amended to provide that a single order ticket may be used for multiple account transactions (e.g. a purchase of securities of a money market fund for several accounts at the same time).

Paragraph (k)(3), dealing with the form of notification, has been revised significantly. The Securities and Exchange Commission has questioned the provision in the revised proposal that would have excluded transactions in U.S. Government, federal agency and municipal obligations from the conformation requirements. During the period that the Board was considering the revised proposal, the SEC amended its confirmation rule for brokers and dealers setting forth requirements applicable to both dealer and agency transactions in equity and debt securities, other than U.S. Savings Bonds and municipal securities (Securities Exchange Act Release No. 34–15219). The SEC also solicited additional comment as to whether disclosure should be required on confirmations of markups and markdowns on "riskless principal" transactions in non-municipal debt securities and municipal securities (Securities Exchange Act Release No. 34–15220). The Commission also solicited comment as to whether a "market-maker" exception similar to that provided for dealers in equity securities should also be provided for dealers in municipal securities and non-municipal debt securities. In view of the significant controversy concerning the SEC's proposed disclosure requirements for "riskless principal" transactions, the Board's revised proposal excluded, in toto, transactions in U.S. government, agency and municipal securities from the proposed confirmation requirements. Upon further examination, the Board believes that it would not impose an undue hardship and would be consistent with investor protection to apply the confirmation rules to transactions in U.S. Government securities (other than U.S. Savings Bonds), federal agency obligations and municipal securities (where the bank is not already required to comply with rules of the Municipal Securities Rulemaking Board), but that the rules should not operate at the present time to require banks to disclose mark-ups, mark-downs and other remuneration where the bank executes transactions in U.S. Government, federal agency or municipal obligations in a dealer capacity. The Board noted that further study of the issue appears necessary, particularly on the question as to the type of market maker exception that should be provided if a "riskless principal" requirement along the lines proposed by the SEC is to be adopted for bank dealers. Additional comment on the confirmation requirements as they apply to transactions in U.S. Government, federal agency and municipal securities is requested by September 24, 1979.

In addition, paragraph (k)(3)(ii)(d) has been revised to eliminate the requirement that time of execution be shown on the form of notification and to substitute a requirement that the form of notification contain a statement that the time of execution will be furnished within a reasonable time upon written request of the customer.

As to the requirements concerning time of notification (paragraph (k)(4)), the Board reviewed numerous comments suggesting that State member banks be permitted to mail confirmations within five business days from the settlement date rather than, as contemplated by the revised proposal, the date of the transaction or the date that the bank receives the broker-dealer confirmation. The Board concluded that no change was warranted because the provision as stated in the revised proposal provided the greatest likelihood that confirmations would be received by the customer at or before the completion of the transaction while simultaneously maintaining flexibility in situations in which confirmations from the broker-dealer are not received by the bank prior to the settlement date.

Finally, the Board has followed the suggestions of numerous commentators in two areas. First, the confirmation requirements for a periodic plan have been amended and paragraph (k)(4)(v) now provides that the bank mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the transaction, and all other debits and credits of the customer's account involved in the transaction. Paragraph (k)(4)(v) also provides that upon request of the customer, the bank will furnish the information required in paragraph (k)(3).

The second area of change affects the Securities Trading Policies and Procedures section. Paragraph (k)(5)(d), establishing reporting requirements for bank officers and employees, has been amended to focus more clearly upon those individuals involved in the making of investment decisions. In addition, the Board has determined that the reporting requirements should apply to U.S. Government or agency obligations in order to provide a desirable audit control for banks. After considering numerous comments which stated that the reporting provisions of the revised proposal constituted an invasion of personal privacy, the Board believes that the purpose of the provision (to prevent "scalping" or other improper use of inside information and to provide a desirable audit control for banks) will be served by (1) excluding reporting of

transactions in mutual fund shares, (2) excluding reporting of transactions which in the aggregate involve $10,000 or less during a calendar quarter, and (3) where reportable transactions have occurred, requiring only that the date and name of the security purchased or sold be reported (but not the actual number of shares or dollar amount of securities purchased or sold). Where reports indicate the possibility of misuse of inside information, the Board expects State member banks to obtain such additional information as may be necessary to satisfy themselves that the employee has not misused nonpublic information in his possession for his own personal enrichment.

Pursuant to sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321, 248 (a) and (1) and section 3(b)(1) *et seq.)*, the Board proposes to amend Regulation H (12 CFR Part 208) by adding a paragraph (k) to § 208.8 as set forth below:

§ 208.8 Banking practices.

* * * * *

(k) *Recordkeeping and confirmation of certain securities transactions effected by State member banks.*

(1) *Definitions:* For purposes of this paragraph (k):

(i) "Customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee or other fiduciary account, for which a State member bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are the subject of the transactions;

(ii) "Collective investment fund" means funds held by a State member bank as fiduciary and, consistent with local law, invested collectively (A) in a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under the Uniform Gifts to Minors Act, or (B) in a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or similar trusts which are exempt from Federal income taxation under the Internal Revenue Code;

(iii) A bank shall be deemed to exercise "investment discretion" with respect to an account if, directly or indirectly, the bank (A) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (B) makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions;

(iv) "Periodic plan" (including dividend reinvestment plans, automatic investment plans and employee stock purchase plans) means any written authorization for a State member bank acting as agent to purchase or sell for a customer a specific security or securities, in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals and setting forth the commission or charges to be paid by the customer in connection therewith or the manner of calculating them;

(v) "Security" means any interest or instrument commonly known as a "security", whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include (A) a deposit or share account in a federally or state insured depository institution, (B) a loan participation, (C) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (D) currency, (E) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (F) units of a collective investment fund, (G) interests in a variable amount (master) note of a borrower of prime credit, or (H) U.S. Savings Bonds.

(2) *Recordkeeping:* Every State member bank effecting securities transactions for customers shall maintain the following records with respect to such transactions for at least three years:

(i) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. The records of original entry shall show the account or customer for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(ii) Account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all receipts and disbursements of cash with respect to transactions in securities for such account and all other debits and credits pertaining to transactions in securities;

(iii) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(A) The account(s) for which the transaction was effected;

(B) Whether the transaction was a market order, limit order, or subject to special instructions;

(C) The time the order was received by the trader or other bank employee responsible for effecting the transaction;

(D) The time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or canceled;

(E) The price at which the order was executed; and

(F) The broker/dealer utilized;

(iv) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each such broker during the calendar year.

Nothing contained in this subparagraph shall require a bank to maintain the records required by this rule in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information.

(3) *Form of Notification:* Every State member bank effecting a securities transaction for a customer shall maintain for at least three years and, except as provided in subparagraph (4), shall mail or otherwise furnish to such customer either of the following types of notifications:

(i)(A) a copy of the confirmation of a broker/dealer relating to the securities transaction; and (B) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a prior written agreement between the bank and the customer, a statement of the source and the amount of any remuneration to be received; or

(ii) a written notification disclosing;

(A) The name of the bank;

(B) The name of the customer;

(C) Whether the bank is acting as agent for such customer, as agent for both such customer and some other person, as principal for its own account, or in any other capacity;

(D) The date of execution and a statement that the time of execution will be furnished within a reasonable time upon written request of such customer, and the identity, price and number of shares or units (or principal amount in the case of debt securities) of such

security purchased or sold by such a customer;

(E) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from such customer in connection with the transaction;

(F) The amount of any remuneration received or to be received by the bank from the customer and the source and amount of any other remuneration to be received by the bank in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer, provided, however, in the case of U.S. Government securities, federal agency obligations and municipal obligations, this subparagraph (f) shall apply only with respect to remuneration received by the bank in an agency transaction; and

(G) The name of the broker/dealer utilized; or, where there is no broker/dealer, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

(4) *Time of Notification:* The time for mailing or otherwise furnishing the written notification described in subparagraph (3) shall be 5 business days from the date of the transaction, or if a broker/dealer is utilized, within 5 business days from the receipt by the bank of the broker's confirmation, but the bank may elect to use the following alternative procedures if the transaction is effected for:

(i) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreeement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customer;

(ii) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person, upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge such person a reasonable fee for providing this information.

(iii) Accounts, where the bank exercises investment descretion in an agency capacity, in which instance (A) the bank shall mail or otherwise furnish to each customer not less frequently than once ever three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's accounts during such period, and (B) if requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the written notification described in subparagraph (3).

(iv) A collective investment fund, in which instance the bank shall at least annually furnish a copy of a financial report of the fund, or provide notice that a copy of such report is available and will be funished upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each particpating account. This report shall be based upon an audit made by independent public accountants or internal auditors responsible only to the board of directors of the bank.

(v) A periodic plan, in which instance the bank shall mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the transaction, and all other debits and credits of the customer's account involved in the transaction; provided that upon the written request of the customer the bank shall furnish the information described in subparagraph (3), except that any such information relating to remuneration paid in connection with the transaction need not be provided to the customer when paid by a source other than the customer. The bank may charge a reasonable fee for providing the information described in subparagraph (3).

(5) *Securities Trading Policies and Procedures:* Every State member bank effecting securities transactions for customers shall establish written policies and procedures providing:

(i) Assignment of responsibility for supervision of all officers or employees who (A) transmit orders to or place orders with broker/dealers, or (B) execute transactions in securities for customers;

(ii) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are recieved at approximately the same time and are placed for execution either individually or in combination;

(iii) Where applicable and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(iv) That bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and all transactions involving in the aggregate $10,000 or less during the calendar quarter.

(6) *Exceptions:* The following exceptions to subparagraph (k) shall apply:

(i) The requirements of section (k)(2)(ii) through (k)(2)(iv) shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three calendar year period;

(ii) Activities of a State member bank that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of this paragraph (k); and

(iii) Activities of foreign branches of a State member bank shall not be subject to the requirements of this paragraph (k).

Board of Governors of the Federal Reserve System, June 20, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-22685 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

Recordkeeping and Confirmation Requirements for Securities Transactions; Adoption of New Part and Request for Comments on Certain Provisions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final Rule and Request for Comments on Certain Provisions.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") has adopted a new Part 344 (12 CFR 344) to require insured State nonmember banks that effect certain securities transactions for customers provide confirmation of and maintain records with respect to such transactions. Similar regulations are being adopted by the Comptroller of the Currency and the Board of Governors of the Federal Reserve System. A proposed regulation was originally published for public comment on February 23, 1978 (43 FR 7441); a substantial number of substantive comments were received and comment was requested on a revised proposal on November 1, 1978 (43 FR 51638). Although it is intended that these amendments become effective on January 1, 1980, additional comment on the confirmation requirements as they apply to transactions in U.S. Government, agency and municipal securities is invited until September 24, 1979. The FDIC will consider comments and adopt any appropriate amendments to the regulation as soon thereafter as possible.

DATE: Comments must be received on or before September 24, 1979. The new Part is effective on January 1, 1980.

ADDRESS: Interested persons are invited to submit written data, views or arguments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Gervino, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389–4422.

SUPPLEMENTARY INFORMATION: The final rule is substantially similar to the revised proposal released on November 1, 1978. The following is a summary of the significant revisions which were made.

Commentators suggested that the definition of "investment discretion" be modified to track the language of section 3(a)(35) of the Securities Exchange Act of 1934 ("1934 Act") which defines the same term. Upon reflection, the FDIC has concluded that, insofar as it is pertinent, the term should be defined in Part 344 as it is defined in the 1934 Act. Accordingly, the language of § 344.2(c) now tracks the language of sections 3(a)(35)(A) and (B) of the 1934 Act. If the Securities and Exchange Commission ("SEC") determines pursuant to regulation, as authorized by paragraph (C) of section 3(a)(35) that other exercises of influence with respect to accounts constitute "investment discretion," the FDIC will consider whether the definition of "investment discretion" adopted herein should be revised also. The FDIC noted, however, that the change in the language of the definition of "investment discretion" is not intended to alter its view that a bank would be deemed to exercise investment discretion in investment advisory account relationships where the customer, as a matter of practice, *generally* approves investment recommendations made by the bank.

With respect to the definition of "security", numerous amendments were suggested. In particular, it was recommended that the definition be revised to exclude short-term obligations of up to twelve-month maturities and interests in money market mutual funds. The FDIC has determined that the definition of "security" should not be changed from the definition stated in the revised proposal, except to exclude savings bonds from the definition. The FDIC recognized that banks generally define short-term obligations as those having a maturity of twelve months or less. However, the FDIC believed that it would be inappropriate to significantly alter the definition of "security" contained in the Securities Exchange Act of 1934 which provides an exclusion for certain obligations of up to nine-months maturity.

Since commentators failed to demonstrate that the potential cost to banks would outweigh the benefits to the investing public, the FDIC has determined to retain the nine-months maturity exclusion. For the same reason, the FDIC has decided not to exclude money market mutual funds from the definition of "security" but, as indicated below, has modified the recordkeeping requirements to lessen the potential cost impact. Furthermore, the FDIC noted that transactions in money market fund shares derive primarily from accounts over which the banks exercise investment discretion and therefore need not be confirmed on an individual basis except upon customer request (§§ 344.5(b) and 344.5(c)).

With respect to the recordkeeping requirements, the FDIC has responded to comments expressing the concern that the cost of compliance would be prohibitive due to the requirement of § 344.3(b) that an account record be maintained for each customer. A provision has been added stating that § 344.3 does not require a bank to maintain the records required by the paragraph in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information. In addition, § 344.3(e)(1) has been amended to provide that a single order ticket may be used for multiple account transactions (e.g., a purchase of securities of a money market fund for several accounts at the same time).

Section 344.4 has been revised significantly. The SEC has questioned the provision in the revised proposal that would have excluded transactions in U.S. Government, Federal agency, and municipal obligations from the confirmation requirements. During the period that the FDIC was considering the revised proposal, the SEC amended its confirmation rule for brokers and dealers setting forth requirements applicable to both dealer and agency transactions in equity and debt securities, other than U.S. Savings Bonds and municipal securities (S.E.C. Rel. No. 34–15219, 43 FR 47495 (October 6, 1978)). The SEC also solicited additional comment as to whether disclosures should be required on confirmations of mishaps and mark-downs on "riskless principal" transactions in nonmunicipal debt securities and municipal securities (S.E.C. Rel. No. 34–15220, 43 FR 47538 (October 6, 1978)). The SEC also solicited comment as to whether a "market maker" exemption similar to that provided for dealers in equity securities should also be provided for dealers in municipal securities and nonmunicipal debt securities.

In view of the significant controversy concerning the SEC's proposed disclosure requirements for "riskless principal" transactions, the FDIC's revised proposal excluded, in total, transactions in U.S. Government, agency and municipal securities from the proposed confirmation requirements. Upon further examination, the FDIC believes that it would not impose an undue hardship and would be consistent

with investor protection to apply the confirmation rules to transactions in U.S. Government securities (other than U.S. Savings Bonds), Federal agency obligations and municipal securities (where the bank is not already required to comply with rules of the Municipal Securities Rulemaking Board), but that the rules should not operate at the present time to require banks to disclose mark-ups, mark-downs and other remuneration where the bank executes transactions in U.S. Government, Federal agency or municipal obligations in a dealer capacity.

The FDIC noted that further study of the issue appears necessary, particularly on the question as to the type of market maker exception that should be provided if a "riskless principal" requirement along the lines proposed by the SEC is to be adopted for bank dealers. Additional comment on the confirmation requirements as they apply to transactions in U.S. Government, agency, and municipal securities is requested by September 24, 1979.

In addition, the form of notification must show the date of execution of a transaction and contain a statement that the time of execution will be furnished, within a reasonable time upon written request of the customer.

The FDIC reviewed numerous comments suggesting that banks be permitted to mail confirmations within five business days from the settlement date rather than, as contemplated by the revised proposal, the date of the transaction or the date that the bank receives the broker/dealer confirmation. The FDIC concluded that no change was warranted because the provision as stated in the revised proposal provided the greatest likelihood that confirmations would be received at or before the completion of the transaction while simultaneously maintaining flexibility in situations in which confirmations from the broker/dealer are not received within the proper time period.

Finally, the FDIC has followed the suggestion of numerous commentators in two areas. First, the confirmation requirements for a periodic plan have been amended and § 344.5(e) now provides that the bank mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the transaction, and all other debits and credits of the customer's account involved in the transaction. Section 344.5(e) also provides that upon request of the customer, the bank will furnish the information required in paragraph § 344.4.

The second area of change affects the Securities Trading Policies and Procedures section. Section 344.6(d) has been amended to focus more clearly upon those individuals involved in making investment decisions. After considering numerous comments that stated that the provisions of the revised proposal constituted an invasion of personal privacy, the FDIC believes that the purpose of the provision (to prevent "scalping" or other improper use of insider information) will be served by revising the reporting provision (1) to exclude reporting of transactions in mutual fund shares, (2) to exclude reporting of aggregate transactions of $10,000 or less in principal amount during the calendar quarter, and (3) where reporting of transactions is required, to require only that the date and class of security transferred or sold be reported (but not the actual number of shares bought or sold). Where reports indicate the possibility of misuse of insider information, the FDIC will expect insured State nonmember banks to obtain such additional information as may be necessary to satisfy themselves that the employee has not misused nonpublic information in his possession for his own personal enrichment.

Numerous commentators requested that the exception contained in § 344.7(a) be made consistent with that proposed by the Board of Governors of the Federal Reserve System. The FDIC, in light of such comments, has decided to raise the exemption from 50 securities transactions per year to 200 securities transactions.

A new 12 CFR Part 344 is added to read as set forth below:

PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Sec.

Authority: 12 U.S.C. 1817, 1818, 1819.

§ 344.1 Purpose and scope.

(a) *Purpose.* The purpose of this Part is to ensure that purchasers of securities in transactions effected by an insured nonmember bank are provided adequate information concerning the transactions. This part is also designed to ensure that insured nonmember banks maintain adequate records and controls with respect to securities transactions they effect.

(b) *Scope.* This part is issued by the Federal Deposit Insurance Corporation ("FDIC") and applies to insured banks which are not members of the Federal Reserve System ("bank").

§ 344.2 Definitions.

For purposes of this Part:

(a) "Collective investment fund" means funds held by a bank as fiduciary and, consistent with local law, invested collectively (1) in a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under the Uniform Gifts to Minors Act, or (2) in a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or similar trusts which are exempt from Federal income taxation under the Internal Revenue Code;

(b) "customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee or other fiduciary account, for which a bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are the subject of the transactions;

(c) a bank shall be deemed to exercise "investment discretion" with respect to an account if, directly or indirectly, the bank (1) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (2) makes recommendations as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

(d) "periodic plan" means any written authorization for a bank acting as agent to purchase or sell for a customer, a specific security or securities, in specific amounts (calculated in security units or dollars) or (to the extent of dividends and funds available) at specific time intervals, and setting forth the commission or charges to be paid by the customer in connection therewith, or the manner of calculating them;

(e) "security" means any interest or instrument commonly known as a "security," whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness or any participation in or right to subscribe to or purchase any of

the foregoing. The term "security" does not include (1) a deposit or share account in a federally insured depository institution, (2) a loan participation, (3) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (4) currency, (5) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (6) units of a collective investment fund, (7) interests in a variable amount (master) note of a borrower of prime credit or (8) U.S. Savings Bonds.

§ 344.3 Recordkeeping.

Every bank effecting securities transactions for customers shall maintain the following records of those transactions for at least three years:

(a) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. These shall include the account for which each such transaction was effected, the description of the securities, the unit and aggregate purchase of sale price (if any), the trade date, and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(b) account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all other debits and credits pertaining to each account including all receipts and disbursements of cash;

(c) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(1) the accounts for which the transaction was effected;

(2) whether the transaction was a market order, limit offer, or subject to special instructions;

(3) the time the order was received by the trader or other bank employee responsible for effecting the transaction;

(4) the time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or cancelled;

(5) the price at which the order was executed; and

(6) the broker/dealer utilized;

(d) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each broker during the calendar year.

Nothing contained in this subparagraph shall require a bank to maintain the records required by this section in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information.

§ 344.4 Form of Notification

Every bank effecting a securities transaction for a customer shall maintain for at least three years and, *except* as provided in § 344.5, mail or otherwise furnish to such customer *either* of the following types of notifications:

(a) (1) A copy of the confirmation of a broker/dealer relating to the securities transaction; and (2) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a prior written agreement between the bank and the customer, a statement of the source and the amount of any remuneration to be received; *or*

(b) A written notification disclosing—

(1) The name of the bank;

(2) The name of the customer;

(3) Whether the bank is acting as agent for the customer, as agent for both the customer and some other person, as prinicipal for its own account, or in any other capacity;

(4) The date and time of execution (or the fact that the time of execution will be furnished, within a reasonable time, upon written request of the customer), and the identity, price, and number of shares or units (or principal amount in the case of debt securities) of the security purchased or sold by the customer;

(5) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from the customer in connection with the transaction;

(6) The amount of any remuneration received or to be received by the bank from the customer and the source and amount of any other remuneration to be received by the bank in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer, *Provided, however,* in the case of U.S. Government securities, Federal agency obligations and municipal obligations, this subparagraph (b)(6) shall apply only with respect to remuneration received by the bank in an agency transaction; and

(7)(i) the name of the broker/dealer utilized; or (ii) where no broker/dealer is utilized, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

§ 344.5 Time of Notification.

The time for mailing or otherwise furnishing the written notification described in § 344.4 shall be five business days from the date of the transaction, or if a broker/dealer is utilized, within five business days from the receipt by the bank of the broker/dealer's confirmation, *but* the bank may elect to use the following alternative procedures if the transaction is effected for:

(a) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customers;

(b) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person, upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge such person a reasonable fee for providing this information;

(c) Accounts where the bank exercises investment discretion in an agency capacity, in which instance:

(1) The bank shall mail or otherwise furnish to each customer, at least once every three months, an itemized statement that specifies funds and securities in the custody or possession of the bank at the end of such period, and all debits, credits, and transactions in the customer's account during such period; and

(2) If requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the written notification described in § 344.4;

(d) A collective investment fund, in which instance the bank shall at least annually furnish to the customer a copy of the financial report of the fund, *or* provide notice that a copy of the report is available and will be furnished upon request to each person to whom a regular periodic accounting would ordinarily be rendered for each participating account. This report shall be based upon an audit;

(e) A periodic plan, in which instance the bank shall mail or otherwise furnish to the customer, as promptly as possible after each transaction, a written statement showing (1) the funds and securities in the custody or possession of the bank, (2) all service charges and commissions paid by the customer in connection with the transaction, and (3) all other debits and credits of the customer's account involved in the transaction; *provided* that upon the written request of the customer the bank shall furnish the information described in § 344.4, *except* that any such information relating to remuneration paid in connection with the transaction need not be provided to the customer when paid by a source other than the customer. The bank may charge a reasonable fee for providing the information described in § 344.4.

§ 344.6 Securities Trading Policies and Procedures.

Every bank effecting securities transactions for customers shall establish written policies and procedures providing:

(a) assignment of responsibility for supervision of all officers or employees who (1) transmit orders to, or place orders with broker/dealers, or (2) execute transactions in securities for customers;

(b) for the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(c) where applicable, and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(d) that bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and transactions involving in the aggregate $10,000 or less in principal amount during the quarter.

§ 344.7 Exceptions.

(a) The requirements of §§ 344.3(b) through 344.3(d) shall not apply to banks having an average of less than 200 securities transactions per calendar year for customers over the prior three-calendar-year period;

(b) Activities of a bank that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of this Part; and

(c) Activities of foreign branches of a bank shall not be subject to the requirements of this Part.

By order of the Board of Directors, July 16, 1979.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-22684 Filed 7-23-79; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2972]

Arnaudville Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires an Arnaudville, La. manufacturer and seller of mobile homes to cease improperly designating its warranties; and failing to include in its warranties all the information required by the Disclosure Rule, 16 CFR 701 (1977). The order further requires that purchasers of firm's products manufactured after July 4, 1975, whose warranties are still in effect, be informed, as prescribed, of their legal rights and the firm's obligations under warranties.

DATES: Complaint and order issued June 21, 1979.*

FOR FURTHER INFORMATION CONTACT: ETC/PR, Barbara Rowan, Washington, D.C. 20580. (202) 523-1642.

*Copies of the Complaint and Decision and Order are filed with the original document.

SUPPLEMENTARY INFORMATION: On Monday, April 16, 1979, there was published in the **Federal Register**, 44 FR 22488, a proposed consent agreement with analysis In the Matter of Arnaudville Industries, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.70 Fictitious or misleading guarantees; § 13.73 Formal regulatory and statutory requirements; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-75 Warranties. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1647 Guarantees; § 13.1760 Terms and conditions. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; 15 U.S.C. 2310)

Carol M. Thomas,

Secretary.

[FR Doc. 79-22811 Filed 7-23-79; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-2971]

Fedders Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

agreement requires an Edison, N.J. manufacturer and distributor of various products, including split system heat pumps, to offer, without charge, a replacement defrost cycle switch to all current owners of split system heat pumps manufactured by Fedders between November, 1975 and June 1, 1978; to extend a full warranty on the sealed system of the heat pump until May 1, 1980 to those purchasers who elect installation of the new defrost switch; and to reimburse all past or current owners of the affected heat pumps for any repair to the sealed system of the unit for which the owner has paid. The firm is required to mail notices to current and past owners of the affected heat pumps to let them know about the remedial program, and advertise the program in national magazines if a sufficient number of owners cannot be reached by letters.

DATES: Complaint and order issued June 14, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/PE, Robert S. Blacher, Washington, D.C. 20580. (202) 724–1507.

SUPPLEMENTARY INFORMATION: On Monday, February 26, 1979, there was published in the **Federal Register**, 44 FR 10985, a proposed consent agreement with analysis In the Matter of Fedders Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–55 Refunds, rebates and/or credits; 13.533–75 Warranties.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 79-22809 Filed 7-23-79; 8:45 am]

BILLING CODE 6750-01-M

* Copies of the Complaint and Decision and Order are filed with the original document.

16 CFR Part 13

[Docket C-2973]

Madison Mobile-Modular Homes, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires an Ontario, Calif. manufacturer and seller of mobile homes to cease failing to properly designate its written warranties; disclose in its warranties all the information required by the Disclosure Rule, 16 CFR 701 (1977); and note in its warranty registration cards that warranty coverage or performance is not conditioned on the return of the cards. The firm is further required to notify purchasers of its mobile homes manufactured after July 4, 1975 of their implied warranty rights; and make available to these consumers all the relief provided under applicable state laws. Additionally, the order restrains the firm for four years from raising any defenses relating to the disclaimer of implied warranties in suits brought by affected purchasers.

DATES: Complaint and order issued June 21, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/PR, Barbara Rowan, Washington, D.C., 20580. (202) 523–1642.

SUPPLEMENTARY INFORMATION: On Monday, April 16, 1979, there was published in the **Federal Register**, 44 FR 22491, a proposed consent agreement with analysis In the Matter of Madison Mobile-Modular Homes, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.70 Fictitious or misleading guarantees; § 13.73 Formal regulatory and statutory requirements; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–45 Maintain records; 13.533–75 Warranties. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1647 Guarantees; § 13.1760 Terms and conditions. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements: § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; 15 U.S.C. 2310)

Carol M. Thomas,

Secretary.

[FR Doc. 79-22810 Filed 7-23-79; 8:45 am]

BILLING CODE 6750-01-M

* Copies of the Complaint and Decision and Order are filed with the original document.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release No. 34-15979]

Requests for Confidential Treatment of Information Filed by Institutional Investment Managers

Correction

In FR Doc. 79–20888 appearing at page 39386 in the issue for Friday, July 6, 1979, on page 39387, in the fifth line of paragraph d, delete the first "of".

BILLING CODE 1505-01-M

17 CFR Parts 270 and 274

Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate; Revision of Rule and Amendment of Form

Correction

In FR Doc. 79–19199 appearing at page 36152 in the issue for Wednesday, June 20, 1979, on page 36153, second column, third line of the Footnote, remove the word "not".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income (SSI) Program; Valuing Resources on the Basis of Equity and Increasing Maximum Values on Certain Excluded Resources

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These regulations change the way we evaluate resources under the Supplemental Security Income (SSI) program. Instead of evaluating property (other than an automobile) by its current market value we use its equity value, i.e., current market value less encumbrances. The regulations also increase the maximum value of household goods, personal effects and an automobile before these items are counted in determining whether persons meet the statutory resource limit. One automobile is excluded if it meets certain use requirements or to the extent that its current market value does not exceed $4,500, but any excess over $4,500 is counted. Any other automobile is counted at its equity value.

EFFECTIVE DATE: All of these regulations will be effective beginning with November 1, 1979. However, we are giving § 416.1218, *Exclusion of the automobile,* interim effect and providing an additional period for public comment because this section has been changed from the NPRM as a result of comments received. Any additional comments must be received on or before September 24, 1979.

ADDRESSES: Written comments may be submitted to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7414.

SUPPLEMENTAL INFORMATION:

Prior Publications

Under the Social Security Act, a person whose resources exceed $1,500 and a couple whose resources exceed $2,250 may not be eligible for SSI benefits. The Act further provides that in determining resources there shall be excluded "household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable."

In the past, SSA has evaluated these resources under the SSI program on the basis of current market value and SSA regulations currently reflect that policy. The Secretary reviewed the policy and on May 2, 1978, published a Notice of Proposed Rulemaking in the **Federal Register** (43 FR 18698) changing the basis of evaluating resources from current market value to equity value.

On April 28, 1978, a Notice of Proposed Rulemaking was published in the **Federal Register** (43 FR 18206) increasing the value of houshold goods and personal effects and an automobile that a person may have before they are counted toward the statutory resource limit. The excluded amount for household goods and personal effects was increased from $1,500 to $2,000, with any excess value counted toward the statutory resource limit. Similarly, the excluded amount for an automobile was increased from $1,200 to $2,000. These increases were proposed to allow for inflation.

Since both NPRMs amend the same sections of the regulations, the final rules are combined for publication at the same time.

Comments on Prior Publications

(1) Views were expressed by a welfare policy and law organization regarding SSA's rulemaking procedure. The commenter stated that past proposed rules have been given interim effect and suggested that we give equal treatment to these proposed rules.

The Administrative Procedure Act (APA) requires publication of an NPRM in the **Federal Register.** Although the statute makes an exception for matters relating to benefits, the Department of Health, Education, and Welfare has committed itself to observe the APA requirements on rulemaking even in its benefit programs. Under the APA we can make an exception to publishing an NPRM if it is impracticable, unnecessary, or contrary to public interest. We believe that the two prior NPRMs proposed important changes in policy and, therefore, an opportunity for public comment was useful.

(2) The welfare policy and law organization also stated that it believed the following published statement in the NPRM of May 2, 1978 was incorrect:

> However, regulations pertaining to resources for purposes of the aid to families with dependent children (AFDC) program permit each State to decide whether to use current market value or equity value in evaluating resources for AFDC.

We agreed that this statement was inaccurate and we deleted it through a correction notice published in the **Federal Register** on March 26, 1979 (44 FR 18053).

(3) Several commenters felt that there was inequity in the proposed rules to increase the maximum value of the automobile before it would be counted as a resource. They stated that people who own automobiles and homes appear to have an advantage over those who do not. These commenters suggested that the maximum value on household goods and personal effects should be raised for those people who do not own automobiles and homes.

The Social Security Act provides that the value of household goods, personal effects, and an automobile is to be excluded from resources to the extent that the Secretary determines to be reasonable. Current regulations and these regulations both provide for establishing limits on resources by category, that is, for household goods, and personal effects and for an automobile. For these categories, we have set limits which we consider consistent, with the purpose of the SSI program, to enable the aged, blind and disabled persons to meet their subsistence needs. We have not established limits for the value of a home since the law requires that the total value of a home is to be excluded from resources. We have also concluded that there are special circumstances which justify entirely excluding an automobile. For example, if the automobile is needed for employment or medical treatment or if it has been modified for use by a handicapped person, we will exclude it without regard to its value. Similarly, we exclude the total value of certain household goods and personal effects. For example, we totally exclude items that are necessary because of a person's physical condition and which are not used by others in the household.

We believe that the commenters' suggestion would not be consistent with the purpose of the SSI program. Increasing the value of an exclusion of one kind of resource simply because an exclusion for another kind of resource is not taken advantage of would permit a person to have more resources of a particular kind than the person would otherwise need for subsistence. Therefore, we are not adopting the commenters' suggested change.

(4) Several commenters suggested that the reasonable values of household

goods, personal effects, and the automobile be increased yearly to keep pace with inflation.

The purpose of updating the limits of household goods, personal effects, and the automobile in these regulations is an attempt to maintain these limits in the same relative position to the economy as they were at the start of the SSI program in January 1974. We intend to reassess the limits periodically in light of inflation (and any other pertinent factors). We will consider updating the limits if warranted on the basis of these reassessments.

(5) Several commenters felt that the proposed amounts of $2,000 for the reasonable values of household goods, personal effects, and the automobile are insufficient because the amounts were based on 1976 information and do not keep up with current inflation.

While the increase in values reflect increased prices only for the period from April 1972 to June 1976, as indicated, we will consider updating the dollar limits in the future to reflect inflation after June 1976.

(6) Other commenters asked whether the proposed amendments have retroactive or prospective effect. These amendments will have prospective effect. Both the program and administrative costs involved in making these rules retroactive would be extremely high. In order to identify persons affected by a change in rules, all cases which were disallowed for a particular factor of eligibility (e.g., excess resources) would have to be identified, contacted and screened out, or processed. These rules will be effective the first day of the month following the expiration of 90 days after publication in the Federal Register (For example, if the rules are published July 25, 1979, the effective date will be November 1, 1979.) Time is needed to prepare, print, and distribute instructions to 1,200 field offices where these regulations will be implemented.

(7) One commenter asked that a standard concerning automobiles which Congress has written into the Food Stamp Act of 1977 be applied to the SSI program. The commenter suggests we count the amount by which the market value of an automobile exceeds $4,500. We are modifying our policy to incorporate this suggestion. We will exclude one automobile, regardless of value, if it meets certain use requirements, or to the extent that its current market value does not exceed $4,500. If the current market value exceeds $4,500, the excess will be counted toward the person's (or couple's) resource limit. Any other automobile is counted toward the resource limit at its equity value (unless it may be excluded under other resource rules—see § 416.1224(d) regarding exclusion of an automobile that is essential for self-support).

Interim Effect for Policy on Valuing the Automobile

We have changed the policy in § 416.1218 for valuing an automobile from that proposed in the two previous NPRMs dated April 29, 1978 and May 2, 1978. However, we are not publishing this change as another NPRM because (1) we have already announced our intent to revise the rules for valuing an automobile in the two earlier NPRMs, and (2) the change we have made is in response to public comments.

All of these regulations, including the rule on the automobile in § 416.1218, will be effective beginning November 1, 1979. The rule on the automobile is being given interim effect because of the change in policy from that in the NPRMs. The public will have an opportunity to comment on this rule for a period of 60 days following publication of these regulations. After we evaluate any comments we receive, we will publish this policy as a final rule.

(Secs. 1102, 1613(a), 1614(f), and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended, 86 Stat. 1470, as amended, 86 Stat. 1471, and 86 Stat. 1475 (42 U.S.C. 1302, 1382b(a), 1382c(f), and 1383))

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: July 12, 1979.

Stanford G. Ross,

Commissioner of Social Security.

Approved: July 17, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1201 is amended by revising paragraphs (b) and (c) to read as follows:

§ 416.1201 Resources; general.

* * * * *

(b) *Liquid resources; defined.* Liquid resources are those assets that are in cash or are financial instruments which are convertible to cash. Liquid resources include cash on hand, cash in savings accounts or checking accounts, stocks, bonds, mutual fund shares, promissory notes, mortgages, and similar properties. Liquid resources, other than cash, are evaluated according to their equity value.

(c) *Nonliquid resources; defined.* (1) Nonliquid resources include all other properties. the term includes both real and personal property. Nonliquid resources are evaluated according to their equity value except as otherwise provided. (See § 416.1218 for treatment of automobiles.)

(2) For purposes of this Subpart L, the "equity value" of an item is defined as:

(i) The price that item can reasonably be expected to sell for on the open market in the particular geographic area involved; minus

(ii) Any encumbrances.

2. Paragraph (b) of § 416.1216 is revised to read as follows:

§ 416.1216 Exclusion of household goods and personal effects.

* * * * *

(b) *Limitation on household goods and personal effects.* In determining the resources of an individual (and spouse, if any), household goods and personal effects are excluded if their total equity value is $2,000 or less. If the total equity value of household goods and personal effects is in excess of $2,000, the excess is counted against the resource limitation.

* * * * *

3. In § 416.1218, paragraph (d) is revoked and paragraphs (b) and (c) are revised to read as follows:

§ 416.1218 Exclusion of the automobile.

* * * * *

(b) *Limitation on automobiles.* In determining the resources of an individual (and spouse, if any), automobiles are excluded or counted as follows:

(1) *Total exclusion.* One automobile is totally excluded regardless of its value if, for the individual or a member of the individual's household—

(i) It is necessary for employment;

(ii) It is necessary for the medical treatment of a specific or regular medical problem; or

(iii) It is modified for operation by or transportation of a handicapped person.

(2) *Exclusion to $4,500 of the market value.* If no automobile is excluded under paragraph (b)(1) of this section, one automobile is excluded from counting as a resource to the extent its current market value does not exceed $4,500. If the market value of the automobile exceeds $4,500, the excess is counted against the resource limit.

(3) *Other automobiles.* Any other automobiles are treated as nonliquid resources and counted to the extent of their equity value (see § 416.1201(c)) against the resource limit. However, see § 416.1224(d).

(c) *Current market value.* The "current market value" of an automobile is the average price an automobile of that particular year, make, model, and condition will sell for on the open market (to a private individual) in the particular geographic area involved.

[FR Doc. 79-22818 Filed 7-23-79; 8:45 am]

BILLING CODE 4110-07-M

Food and Drug Administration

21 CFR Part 520

[Docket No. 79N-0211]

Oral Dosage Form New Animal Drugs Not Subject to Certification: Sulfamethoxypyridazine Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulation for sulfamethoxypyridazine tablets to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of October 17, 1969 (34 FR 16636). In that document, the Academy concluded, and Food and Drug Administration (FDA) concurred, that the product was probably effective for the treatment of bacterial infections in the genitourinary respiratory and gastrointestinal systems of dogs and cats.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

The Parke, Davis & Co., Joseph Campau Avenue at the River, Detroit, MI 48232, responded to the notice by submitting a supplemental NADA (12-821V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product in treating infections in dogs and cats. A regulation was published in the **Federal Register** of September 21, 1971 (36 FR 18726) setting forth the conditions of approval of the supplemental NADA. The regulation reflecting this approval (21 CFR 135C.41, recodified 21 CFR 520.2300) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520, is amended in § 520.2300 by adding after paragraph (d) (1), (2), and (3) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 520.2300 Sulfamethoxypyridazine tablets.

* * * * *

(d) *Conditions of use.* (1) * * * [1]

(2) * * * [1]

(3) * * * [1]

Effective date. This regulation is effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

Dated: July 17, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-22724 Filed 7-23-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

[Docket No. 79N-0216]

Oral Dosage Form New Animal Drugs Not Subject to Certification; Promazine Hydrochloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for promazine hydrochloride to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as a tranquilizer for veterinary use.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Fort Dodge Laboratories, Fort Dodge, IA 50501, responded to the notice by submitting a supplemental NADA (12-656V) providing current information covering manufacturing and controls and revising the labeling for the safe

and effective use of the product as a tranquilizer for horses. The supplemental application was approved by regulation issued in the **Federal Register** of April 29, 1974 (39 FR 14943). The regulation reflecting this approval as an amendment to (21 CFR 135c.29, recodified 21 CFR 520.1962) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bio-equivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

§ 520.1962 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520, is amended in § 520.1962 by adding after paragraph (a)(5)(i), (ii) and (iii) the footnote reference "1."

Effective date. This regulation shall be effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 17, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-22725 Filed 7-23-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 522

[Docket No. 79N-0226]

Implantation or Injectable New Animal Drugs Not Subject to Certification: Promazine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for promazine hydrochloride injection to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. Earlier **Federal Register** publications have reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV–100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as a tranquilizer for veterinary use.

The announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Fort Dodge Laboratories, Fort Dodge, IA 50501, and Wyeth Laboratories, Division of American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101, responded to the notice by submitting supplemental NADA's (11–241V and 10–782V, respectively) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product as a tranquilizer for horses, dogs, and cats. The supplemental NADA 10–782V was approved by a regulation issued in the **Federal Register** of August 3, 1973 (38 FR 20821). The regulation reflecting this approval established a new section (21 CFR 135b.60, recodified 21 CFR 522.1962). Supplemental NADA 11–241V was approved by publication of an amendment to § 522.1962 in the **Federal Register** of January 20, 1976 (41 FR 2821). The section at present does not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1962 by adding after paragraph (D)(1)(i) and (ii), (2), (3), and (4) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 522.1962 Promazine hydrochloride injection.

* * * * *

(d) *Conditions of use.* (1)(i) * * *[1]

(ii) * * *[1]

(2) * * *[1]

(3) * * *[1]

(4) * * *[1]

Effective date. This regulation shall be effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 17, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-22726 Filed 7-23-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 524

[Docket No. 79N-0224]

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification: Flurandrenolide With Neomycin Sulfate Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for flurandrenolide with neomycin sulfate ointment to indicate those conditions of use for which approvals for identical products need not include certain types

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciencies/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV–100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of July 22, 1970 (35 FR 11714). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as a topical ointment for dermatological use on dogs.

That annoucement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Elanco Products Co., A Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, responded to the notice by submitting a supplemental NADA (13–133V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the ointment on dogs. The supplemental application was approved by regulation issued in the **Federal Register** of November 1, 1974 (39 FR 38644). The regulation reflecting this approval (21 CFR 135a.17, recodified 21 CFR 524.1000) did not specify those conditons of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Rm 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1000 by adding after paragraph (c)(1) and (2) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 524.1000 Flurandrenolide with neomycin sulfate ointment.

* * * * *

(c) *Conditions of use. (1)* * * *[1]

(2) * * *[1]

Effective date. This regulation is effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 17, 1979.

Lester M. Crawford

Director, Bureau of Veterinary Medicine.

[FR Doc. 79–22723 Filed 7–23–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 7

[T.D. 7634]

Income Tax; Expenditures To Remove Architectural and Transportation Barriers to Handicapped and Elderly

AGENCY: Internal Revenue Service, Treasury.

ACTION: Adoption of final regulations and deletion of temporary regulations.

SUMMARY: This document provides final regulations (and deletes temporary regulations) relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly. Changes to the applicable law were made by the Tax Reform Act of 1976. These regulations may affect taxpayers who make expenditures to remove architectural and transportation barriers to the handicapped or elderly and provide taxpayers with the guidance needed to comply with the law.

EFFECTIVE DATE: The adoption of final regulations and the deletion of temporary regulations are effective for taxable years beginning after December 31, 1976.

FOR FURTHER INFORMATION CONTACT: John M. Coulter, Jr., of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–4473).

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1977, the **Federal Register** published Treasury Decision 7477 containing temporary income tax regulations under part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (42 FR 17870). Those amendments conformed the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) to section 2122 of the Tax Reform Act of 1976 (90 Stat. 1914). In addition, the temporary regulations promulgated in that document were proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) under section 190 of the Internal Revenue Code of 1954. On June 21, 1977, a public hearing was held with respect to the proposed amendments. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision without change. In addition, this Treasury decision deletes the Temporary Regulations under the Tax Reform Act of 1976 under Code section 190.

Explanation of Provisions

Section 2122 of the Tax Reform Act of 1976 added section 190 to the Code. Section 190 provides that a taxpayer may elect to deduct certain amounts paid or incurred by him in any taxable year beginning after December 31, 1976, and before January 1, 1980, for qualified architectural and transportation barrier removal expenses. The deduction is allowed for certain expenses for the purpose of making any facility, or public transportation vehicle, owned or leased by the taxpayer for use in connection with his trade or business more accessible to, or usable by, handicapped or elderly individuals.

To qualify for the deduction, section 190 provides that the taxpayer must establish that the removal of a barrier meets standards promulgated by the Secretary of the Treasury or his delegate with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations. The standards so

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 154.111 of this chapter, but may require bioequivalency and safety information.

required were initially prescribed in Temporary Regulations under the Tax Reform Act of 1976 (26 CFR Part 7). The final regulations contained in this document prescribe standards identical to those set forth in the temporary regulations. The final regulations provide that qualified expenses include only expenses specifically attributable to the removal of an existing architectural or transportation barrier. These expenses do not include any part of an expense in connection with the construction or comprehensive renovation of a facility or public transportation vehicle or the normal replacement of depreciable property.

The amount deductible under section 190 for any taxable year is limited to $25,000. Under the final regulations, the maximum deduction for a taxpayer (including an affiliated group of corporations filing a consolidated return) for any taxable year is $25,000. The $25,000 limitation applies to a partnership and to each partner. The regulations further provide that expenditures for a taxable year in excess of this amount are to be treated as capital expenditures and constitute adjustments to basis under section 1016(a). A special rule applies where a partner's expenditures exceed $25,000.

Comments on Proposed Regulations

Comments were submitted objecting to the provisions of proposed § 1.190–2(b)(1) limiting expenditures which qualify for the section 190 deduction to expenses specifically attributable to the removal of an existing architectural or transportation barrier and excluding expenses paid or incurred in connection with the construction or comprehensive renovation of a facility or public transportation vehicle. To provide by regulation that a barrier may be *removed* in connection with new construction or comprehensive renovation would be inconsistent with the clear meaning of the statutory language and with the legislative history of the provision.

Other comments suggested that the list of standards for qualifying expenditures, contained in § 7.190–2(b)(2) through (21), should be expanded so that fewer barrier removals would be required to meet the more general standards of subparagraph (22) of § 7.190–2(b). However, we believe that the specifically approved standards should be limited at this time to those enumerated in § 7.190–2(b)(2) through (21), which are based in large measure on standards established by the American National Standards Institute, Inc.

Statutory Concurrence

The Architectural and Transportation Barriers Compliance Board has concurred in the standards set forth in these regulations.

Drafting Information

The principal author of this regulation was John M. Coulter, Jr., of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Additional Information

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of these final regulations is to provide guidance as to the deductibility of expenditures to remove architectural and transportation barriers to the handicapped and elderly. The Treasury Department will review these regulations from time to time in light of comments received from offices within the Treasury Department and Internal Revenue Service or from the public.

Adoption of amendments to the regulations

Accordingly, the regulations proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) under section 190 of the Internal Revenue Code of 1954 are adopted. In addition, the portion of the Temporary Income Tax Regulations under the Tax Reform Act of 1976 issued under section 190 of the Internal Revenue Code of 1954 (26 CFR 7.190–1 through 7.190–3) are deleted.

This Treasury decision is issued under the authority contained in sections 190 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1914 and 68A Stat. 917; 26 U.S.C. 190 and 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: July 6, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.190–1 Expenditures to remove architectural and transportation barriers to the handicapped and elderly.

(a) *In general.* Under section 190 of the Internal Revenue Code of 1954, a taxpayer may elect, in the manner provided in § 1.190–3 of this chapter, to deduct certain amounts paid or incurred by him in any taxable year beginning after December 31, 1976, and before January 1, 1980, for qualified architectural and transportation barrier removal expenses (as defined in § 1.190–2(b) of this chapter). In the case of a partnership, the election shall be made by the partnership. The election applies to expenditures paid or incurred during the taxable year which (but for the election) are chargeable to capital account.

(b) *Limitation.* The maximum deduction for a taxpayer (including an affiliated group of corporations filing a consolidated return) for any taxable year is $25,000. The $25,000 limitation applies to a partnership and to each partner. Expenditures paid or incurred in a taxable year in excess of the amount deductible under section 190 for such taxable year are capital expenditures and are adjustments to basis under section 1016(a). A partner must combine his distributive share of the partnership's deductible expenditures (after application of the $25,000 limitation at the partnership level) with that partner's distributive share of deductible expenditures from any other partnership plus that partner's own section 190 expenditures, if any (if he makes the election with respect to his own expenditures), and apply the partner's $25,000 limitation to the combined total to determine the aggregate amount deductible by that partner. In so doing, the partner may allocate the partner's $25,000 limitation among the partner's own section 190 expenditures and the partner's distributive share of partnership deductible expenditures in any manner. If such allocation results in all or a portion of the partner's distributive share of a partnership's deductible expenditures not being an allowable deduction by the partner, the partnership may capitalize such unallowable portion by an appropriate adjustment to the basis of the relevant partnership property under section 1016. For purposes of adjustments to the basis of properties held by a partnership, however, it shall be presumed that each partner's distributive share of partnership deductible expenditures (after application of the $25,000 limitation at the partnership level) was allowable in full to the partner. This presumption can be rebutted only by clear and convincing evidence that all or any portion of a partner's distributive share of the partnership section 190 deduction was not allowable as a

deduction to the partner because it exceeded that partner's $25,000 limitation as allocated by him. For example, suppose for 1978 A's distributive share of the ABC partnership's deductible section 190 expenditures (after application of the $25,000 limitation at the partnership level) is $15,000. A also made section 190 expenditures of $20,000 in 1978 which he elects to deduct. A allocates $10,000 of his $25,000 limitation to his distributive share of the ABC expenditures and $15,000 to his own expenditures. A may capitalize the excess $5,000 of his own expenditures. In addition, if ABC obtains from A evidence which meets the requisite burden of proof, it may capitalize the $5,000 of A's distributive share which is not allowable as a deduction to A.

§ 1.190-2 Definitions.

For purposes of section 190 and the regulations thereunder—

(a) *Architectural and transportation barrier removal expenses.* The term "architectural and transportation barrier removal expenses" means expenditures for the purpose of making any facility, or public transportation vehicle, owned or leased by the taxpayer for use in connection with his trade or business more accessible to, or usable by, handicapped individuals or elderly individuals. For purposes of this section—

(1) The term "facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or similar real or personal property.

(2) The term "public transportation vehicle" means a vehicle, such as a bus, a railroad car, or other conveyance, which provides to the public general or special transportation service (including such service rendered to the customers of a taxpayer who is not in the trade or business of rendering transportation services).

(3) The term "handicapped individual" means any individual who has—

(i) A physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or

(ii) A physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more of such individual's major life activities, such as performing manual tasks, walking, speaking, breathing, learning, or working.

(4) The term "elderly individual" means an individual age 65 or over.

(b) *Qualified architectual and transportation barrier removal expense*—(1) *In general.* The term "qualified architectural and transportation barrier removal expense" means an architectural or transportation barrier removal expense (as defined in paragraph (a) of this section) with respect to which the taxpayer establishes, to the satisfaction of the Commissioner or his delegate, that the resulting removal of any such barrier conforms a facility or public transportation vehicle to all the requirements set forth in one or more of paragraphs (b) (2) through (22) of this section or in one or more of the subdivisions of paragraph (b) (20) or (21). Such term includes only expenses specifically attributable to the removal of an existing architectural or transportation barrier. It does not include any part of any expense paid or incurred in connection with the construction or comprehensive renovation of a facility or public transportation vehicle or the normal replacement of depreciable property. Such term may include expenses of construction, as, for example, the construction of a ramp to remove the barrier posed for wheelchair users by steps. Major portions of the standards set forth in this paragraph were adapted from "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" (1971), the copyright for which is held by the American National Standards Institute, 1430 Broadway, New York, New York 10018.

(2) *Grading.* The grading of ground, even contrary to existing topography, shall attain a level with a normal entrance to make a facility accessible to individuals with physical disabilities.

(3) *Walks.* (i) A public walk shall be at least 48 inches wide and shall have a gradient not greater than 5 percent. A walk of maximum or near maximum grade and of considerable length shall have level areas at regular intervals. A walk or driveway shall have a nonslip surface.

(ii) A walk shall be of a continuing common surface and shall not be interrupted by steps or abrupt changes in level.

(iii) Where a walk crosses a walk, a driveway, or a parking lot, they shall blend to a common level. However, the preceding sentence does not require the elimination of those curbs which are a safety feature for the handicapped, particularly the blind.

(iv) An inclined walk shall have a level platform at the top and at the bottom. If a door swings out onto the platform toward the walk, such platform shall be at least 5 feet deep and 5 feet wide. If a door does not swing onto the platform or toward the walk, such platform shall be at least 3 feet deep and 5 feet wide. A platform shall extend at least 1 foot beyond the strike jamb side of any doorway.

(4) *Parking lots.* (i) At least one parking space that is accessible and approximate to a facility shall be set aside and identified for use by the handicapped.

(ii) A parking space shall be open on one side to allow room for individuals in wheelchairs and individuals on braces or crutches to get in and out of an automobile onto a level surface which is suitable for wheeling and walking.

(iii) A parking space for the handicapped, when placed between two conventional diagonal or head-on parking spaces, shall be at least 12 feet wide.

(iv) A parking space shall be positioned so that individuals in wheelchairs and individuals on braces or crutches need not wheel or walk behind parked cars.

(5) *Ramps.* (i) A ramp shall not have a slope greater than 1 inch rise in 12 inches.

(ii) A ramp shall have at least one handrail that is 32 inches in height, measured from the surface of the ramp, that is smooth, and that extends 1 foot beyond the top and bottom of the ramp. However, the preceding sentence does not require a handrail extension which is itself a hazard.

(iii) A ramp shall have a nonslip surface.

(iv) A ramp shall have a level platform at the top and at the bottom. If a door swings out onto the platform or toward the ramp, such platform shall be at least 5 feet deep and 5 feet wide. If a door does not swing onto the platform or toward the ramp, such platform shall be at least 3 feet deep and 5 feet wide. A platform shall extend at least 1 foot beyond the strike jamb side of any doorway.

(v) A ramp shall have level platforms at not more than 30-foot intervals and at any turn.

(vi) A curb ramp shall be provided at an intersection. The curb ramp shall not be less than 4 feet wide; it shall not have a slope greater than 1 inch rise in 12 inches. The transition between the two surfaces shall be smooth. A curb ramp shall have a nonslip surface.

(6) *Entrances.* A building shall have at least one primary entrance which is usable by individuals in wheelchairs and which is on a level accessible to an elevator.

(7) *Doors and doorways.* (i) A door shall have a clear opening of no less than 32 inches and shall be operable by a single effort.

(ii) The floor on the inside and outside of a doorway shall be level for a distance of at least 5 feet from the door in the direction the door swings and shall extend at least 1 foot beyond the strike jamb side of the doorway.

(iii) There shall be no sharp inclines or abrupt changes in level at a doorway. The threshold shall be flush with the floor. The door closer shall be selected, placed, and set so as not to impair the use of the door by the handicapped.

(8) *Stairs.* (i) Stairsteps shall have round nosing of between 1 and 1½ inch radius.

(ii) Stairs shall have a handrail 32 inches high as measured from the tread at the face of the riser.

(iii) Stairs shall have at least one handrail that extends at least 18 inches beyond the top step and beyond the bottom step. The preceding sentence does not require a handrail extension which is itself a hazard.

(iv) Steps shall have risers which do not exceed 7 inches.

(9) *Floors.* (i) Floors shall have a nonslip surface.

(ii) Floors on a given story of a building shall be of a common level or shall be connected by a ramp in accordance with subparagraph (5) of this paragraph.

(10) *Toilet rooms.* (i) A toilet room shall have sufficient space to allow traffic of individuals in wheelchairs.

(ii) A toilet room shall have at least one toilet stall that—

(A) Is at least 36 inches wide;

(B) Is at least 56 inches deep;

(C) Has a door, if any, that is at least 32 inches wide and swings out;

(D) Has handrails on each side, 33 inches high and parallel to the floor, 1½ inches in outside diameter, 1½ inches clearance between rail and wall, and fastened securely at ends and center; and

(E) Has a water closet with a seat 19 to 20 inches from the finished floor.

(iii) A toilet room shall have, in addition to or in lieu of a toilet stall described in (ii), at least one toilet stall that—

(A) Is at least 66 inches wide;

(B) Is at least 60 inches deep;

(C) Has a door, if any, that is at least 32 inches wide and swings out;

(D) Has a handrail on one side, 33 inches high and parallel to the floor, 1½ inches in outside diameter, 1½ inches clearance between rail and wall, and fastened securely at ends and center; and

(E) Has a water closet with a seat 19 to 20 inches from the finished floor, centerline located 18 inches from the side wall on which the handrail is located.

(iv) A toilet room shall have lavatories with narrow aprons. Drain pipes and hot water pipes under a lavatory shall be covered or insulated.

(v) A mirror and a shelf above a lavatory shall be no higher than 40 inches above the floor, measured from the top of the shelf and the bottom of the mirror.

(vi) A toilet room for men shall have wall-mounted urinals with the opening of the basin 15 to 19 inches from the finished floor or shall have floor-mounted urinals that are level with the main floor of the toilet room.

(vii) Towel racks, towel dispensers, and other dispensers and disposal units shall be mounted no higher than 40 inches from the floor.

(11) *Water fountains.* (i) A water fountain and a cooler shall have upfront spouts and controls.

(ii) A water fountain and a cooler shall be hand-operated or hand-and-foot-operated.

(iii) A water fountain mounted on the side of a floor-mounted cooler shall not be more than 30 inches above the floor.

(iv) A wall-mounted, hand-operated water cooler shall be mounted with the basin 36 inches from the floor.

(v) A water fountain shall not be fully recessed and shall not be set into an alcove unless the alcove is at least 36 inches wide.

(12) *Public telephones.* (i) A public telephone shall be placed so that the dial and the headset can be reached by individuals in wheelchairs.

(ii) A public telephone shall be equipped for those with hearing disabilities and so identified with instructions for use.

(iii) Coin slots of public telephones shall be not more than 48 inches from the floor.

(13) *Elevators.* (i) An elevator shall be accessible to, and usable by the handicapped or the elderly on the levels they use to enter the building and all levels and areas normally used.

(ii) Cab size shall allow for the turning of a wheelchair. It shall measure at least 54 by 68 inches.

(iii) Door clear opening width shall be at least 32 inches.

(iv) All essential controls shall be within 48 to 54 inches from cab floor. Such controls shall be usable by the blind and shall be tactilely identifiable.

(14) *Controls.* Switches and controls for light, heat, ventilation, windows, draperies, fire alarms, and all similar controls of frequent or essential use, shall be placed within the reach of individuals in wheelchairs. Such switches and controls shall be no higher than 48 inches from the floor.

(15) *Identification.* (i) Raised letters or numbers shall be used to identify a room or an office. Such identification shall be placed on the wall to the right or left of the door at a height of 54 inches to 66 inches, measured from the finished floor.

(ii) A door that might prove dangerous if a blind person were to exit or enter by it (such as a door leading to a loading platform, boiler room, stage, or fire escape) shall be tactilely identifiable.

(16) *Warning signals.* (i) An audible warning signal shall be accompanied by a simultaneous visual signal for the benefit of those with hearing disabilities.

(ii) A visual warning signal shall be accompanied by a simultaneous audible signal for the benefit of the blind.

(17) *Hazards.* Hanging signs, ceiling lights, and similar objects and fixtures shall be placed at a minimum height of 7 feet, measured from the floor.

(18) *International accessibility symbol.* The international accessibility symbol (see illustration) shall be displayed on routes to and at wheelchair-accessible entrances to facilities and public transportation vehicles.

(19) *Additional standards for rail facilities.* (i) A rail facility shall contain a fare control area with at least one entrance with a clear opening at least 36 inches wide.

(ii) a boarding platform edge bordering a drop-off or other dangerous condition shall be marked with a warning device consisting of a strip of floor material differing in color and texture from the remaining floor surface. The gap between boarding platform and vehicle doorway shall be minimized.

(20) *Standards for buses.* (i) A bus shall have a level change mechanism (e.g., lift or ramp) to enter the bus and sufficient clearance to permit a wheelchair user to reach a secure location.

(ii) a bus shall have a wheelchair securement device. However, the preceding sentence does not require a wheelchair securement device which is itself a barrier or hazard.

(iii) The vertical distance from a curb or from street level to the first front door step shall not exceed 8 inches; the riser height for each front doorstep after the first step up from the curb or street level shall also not exceed 8 inches; and the tread depth of steps at front and rear doors shall be no less than 12 inches.

(iv) A bus shall contain clearly legible signs that indicate that seats in the front of the bus are priority seats for handicapped or elderly persons, and that encourage other passengers to make such seats available to handicapped and elderly persons who wish to use them.

(v) Handrails and stanchions shall be provided in the entranceway to the bus in a configuration that allows handicapped and elderly persons to grasp such assists from outside the bus while starting to board and to continue to use such assists throughout the boarding and fare collection processes. The configuration of the passenger assist system shall include a rail across the front of the interior of the bus located to allow passengers to lean against it while paying fares. Overhead handrails shall be continuous except for a gap at the rear doorway.

(vi) Floors and steps shall have nonslip surfaces. Step edges shall have a band of bright contrasting color running the full width of the step.

(vii) A stepwell immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread. Other stepwells shall have, at all times, at least 2 foot-candles of illumination measured on the step tread.

(viii) The doorways of the bus shall have outside lighting that provides at least 1 foot-candle of illumination on the street surface for a distance of 3 feet from all points on the bottom step tread edge. Such lighting shall be located below window level and shall be shielded to protect the eyes of entering and exiting passengers.

(ix) The fare box shall be located as far forward as practicable and shall not obstruct traffic in the vestibule.

(21) *Standards for rapid and light rail vehicles.* (i) Passenger doorways on the vehicle sides shall have clear openings at least 32 inches wide.

(ii) Audible or visual warning signals shall be provided to alert handicapped and elderly persons of closing doors.

(iii) Handrails and stanchions shall be sufficient to permit safe boarding, onboard circulation, seating and standing assistance, and unboarding by handicapped and elderly persons. On a levelentry vehicle, handrails, stanchions, and seats shall be located so as to allow a wheelchair user to enter the vehicle and position the wheelchair in a location which does not obstruct the movement of other passengers. On a vehicle that requires the use of steps in the boarding process, handrails and stanchions shall be provided in the entranceway to the vehicle in a configuration that allows handicapped and elderly persons to grasp such assists from outside the vehicle while starting to board, and to continue using such assists throughout the boarding process.

(iv) Floors shall have nonslip surfaces. Step edges on a light rail vehicle shall have a band of bright contrasting color running the full width of the step.

(v) A stepwell immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread. Other stepwells shall have, at all times, at least 2 foot-candles of illumination measured on the step tread.

(vi) Doorways on a light rail vehicle shall have outside lighting that provides at least 1 foot-candle of illumination on the street surface for a distance of 3 feet from all points on the bottom step tread edge. Such lighting shall be located below window level and shall be shielded to protect the eyes of entering and exiting passengers.

(22) *Other barrier removals.* The provisions of this subparagraph apply to any barrier which would not be removed by compliance with paragraphs (b)(2) through (21) of this section. The requirements of this subparagraph are:

(i) A substantial barrier to the access to or use of a facility or public transportation vehicle by handicapped or elderly individuals is removed;

(ii) The barrier which is removed had been a barrier for one or more major classes of such individuals (such as the blind, deaf, or wheelchair users); and

(iii) The removal of that barrier is accomplished without creating any new barrier that significantly impairs access to or use of the facility or vehicle by such class or classes.

§ 1.190-3 Election to deduct architectural and transportation barrier removal expenses.

(a) *Manner of making election.* The election to deduct expenditures for removal of architectural and transportation barriers provided by section 190(a) shall be made by claiming the deduction as a separate item identified as such on the taxpayer's income tax return for the taxable year for which such election is to apply (or, in the case of a partnership, to the return of partnership income for such year). For the election to be valid, the return must be filed not later than the time prescribed by law for filing the return (including extensions thereof) for the taxable year for which the election is to apply.

(b) *Scope of election.* An election under section 190(a) shall apply to all expenditures described in § 1.190-2 (or in the case of a taxpayer whose architectural and transportation barrier removal expenses exceed $25,000 for the taxable year, to the $25,000 of such expenses with respect to which the deduction is claimed) paid or incurred during the taxable year for which made and shall be irrevocable after the date by which any such election must have been made.

(c) *Records to be kept.* In any case in which an election is made under section 190(a), the taxpayer shall have available, for the period prescribed by paragraph (e) of § 1.6001-1 of this chapter (Income Tax Regulations), records and documentation, including architectural plans and blueprints, contracts, and any building permits, of all the facts necessary to determine the amount of any deduction to which he is entitled by reason of the election, as well as the amount of any adjustment to basis made for expenditures in excess of the amount deductible under section 190.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

§§ 7.190-1—7.190-3 [Deleted]

[FR Doc. 79-22784 Filed 7-23-79; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[Docket No. 21264; FCC 79-418]

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Final rule, Docket 21264.

SUMMARY: The Commission adopts the Report and Order of the Federal-State Joint Board recommending application of the mainland separations formula (Part 67 of the rules) to Puerto Rico and the U.S. Virgin Islands. By this action Part 67 of the rules applies to Puerto Rico and the Virgin Islands. (Separations is the methodology by which expenses and investments are allocated between the inter and intra state jurisdictions.) This action terminates the proceeding.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Federal Communications Commission, Washington, D.C. 20554, Room 530, (632-7084).

Report and Order

Adopted: July 12, 1979.

Released: July 18, 1979.

In the matter of Integration of Rates and Services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264, 43 FR 36978, July 18, 1977.

1. The Commission has under consideration the Report and Order of the Federal-State Joint Board on separations procedures for Puerto Rico and the United States Virgin Islands, released May 29, 1979, which is attached hereto. We agree with the findings of the Joint Board.

2. Accordingly, it is ordered, That the attached Report and Order of the Federal-State Joint Board is adopted as the Commission's Report and Order herein.

3. It is further ordered, That, pursuant to the provisions of Sections 4 (i), 205, 213, 221(c), 221(d), and 403 of the Communications Act of 1934, as amended, the NARUC-FCC Separations Manual, which is incorporated by reference into Part 67 of the Commission's rules and regulations, shall apply to Puerto Rico and the United States Virgin Islands.

§ 67.1 [Amended]

4. It is further ordered, That Part 67 of the Commission's Rules and Regulations, 47 CFR Part 67, is amended by adding the following paragraph (e) to § 67.1:

* * * * *

(e) These Separations Procedures apply to Puerto Rico and the United States Virgin Islands.

5. It is further ordered, That this proceeding is terminated.

(Secs. 1, 2, 4, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; (47 U.S.C. 151, 152, 154, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Report and Order of the Federal-State Joint Board

Adopted: May 14, 1979.

Released: May 29, 1979.

In the matter of Integration of Rates and Services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264.

1. This proceeding was instituted in June, 1977 to establish the separations procedure applicable to Puerto Rico and the Virgin Islands.[1] In the Notice, the Commission stated that the final step of rate integration for Puerto Rico and the Virgin Islands necessitates the prescription of a separations methodology in order to determine an appropriate settlements arrangement. Additionally, the Commission stated that the question before the Joint Board was to determine what modifications, if any, should be made to existing separations procedures so that they may be applied to these off-shore points. This Joint Board adopted an Order in September 1977 establishing a notice and comment procedure to address this question. Following review of the initial filings, the Joint Board adopted a further schedule for the submission of responsive comments, the preparation of a recommended staff decision, and submission of additional filings including implementation studies by the parties in connection with the recommended staff decision.[2]

2. On July 12, 1978 the staff recommended Report and Order was transmitted to all parties of record. The staff concluded therein that the record did not support modifications of the existing Separations Manual which includes the "Ozark" plan. The staff also observed that immediate implementation of the Manual might have adverse economic impacts and, therefore, requested that transition proposals be submitted by the parties. The parties prepared comments, responsive pleadings and implementation studies on the staff recommendation. The Joint Board then conducted an open meeting at which oral arguments were made by the parties. Following that hearing, the Joint Board instructed the staff to prepare this Report and Order which was adopted by telephone vote.

3. This Report and Order is divided into three parts. Park I sets forth the contentions of the parties. Part II summarizes the positions of the parties on the staff recommendation and the positions taken at the open meeting. Part III sets forth the Joint Board's rationale and conclusions in this proceeding. The Board's conclusion is limited to the question before it and does not address the broader questions of rate integration and possible future overall separations changes which some parties raised in their pleadings. The Board does note that immediate applications of the Manual together with full rate integration will provide substantial public interest benefits to the local telephone companies and their users in both Puerto Rico and the Virgin Islands. The benefits from rate integration will also be beneficial to consumers on the mainland and prompt implementation of the final phase of rate integration is strongly recommended.

Part I—Contentions of the Parties

Bell System Companies. 4. The Bell System Companies (Bell) take the position that since message telecommunications service (MTS) rate integration results in application of the nationwide U.S. Mainland average rate schedule to calls to and from Puerto Rico and the Virgin Islands, the existing Separations Manual applicable to the mainland United States should be made applicable to the off-shore points.[3] Bell asserts that the burden is on any party who advocates any different method of separations to show why that method should be adopted. Arguing that no such

[1] *Notice of Inquiry, Proposed Rulemaking and Creation of Federal-State Joint Board,* 64 FCC 2d 1036 (1977).

[2] *Memorandum Opinion and Order,* FCC 78-207, released March 21, 1978.

[3] The existing Separations Manual (Part 67 of the Commission's rules and regulations) which incorporates the so-called "Ozark Plan" was adopted by the Commission in 1970. 26 FCC 2d 247.

showing has been made, Bell contends that traffic to and from the off-shore points involves the use of plant similar to that used on the Mainland. Specifically, Bell argues, that while greater use of satellites and submarine cables now exists in the provision of service, such facilities are generally used solely for interstate and foreign calling, and where so used, should be assigned 100% to interstate as the present Manual would do. Moreover, Bell continues, there is a substantial diversity of conditions on the Mainland which the existing Manual is designed to treat. Bell asserts that the addition of the off-shore points to the domestic scheme will not cause any significant change either in the range of conditions or in the averages. Bell also argues that no arguments based on alleged differences in costs or cost characteristics should be accepted until appropriate cost studies are made and presented for review. Such studies, Bell asserts, should be made on the basis of the existing Manual. In conclusion, Bell argues that the existing Manual has proved its ability to deal with widely varying conditions and should apply to all carriers providing service under the uniform schedules of rates and charges which will result from rate integration.[4]

ITT Companies. 5. The ITT Companies argue that the existing Manual cannot be prescribed for use in the off-shore points without substantial modifications to reflect distinctions between the Caribbean and the Mainland. Specifically, they argue that the existing Manual: (a) Is in direct conflict with the domestic satellite order; (b) was not designed to handle Caribbean Calling patterns; (c) fails to reconcile the "conflict" between rate integration and the cost causation principles adopted in Docket 18128; (d) assumes flat-rate local service as opposed to usage sensitive pricing applicable to much of Caribbean Local service; (e) does not compensate for limited routing options available from Caribbean points; (f) does not adequately reflect the impact of international traffic to and from the off-shore points; (g) ignores cultural distinctions in the Caribbean; (h) contains negotiated "principles" which have no relevance to the Caribbean (i) is based on studies estimating range of cost disparities for mainland traffic only; and (j) is becoming questionable even for the mainland and should therefore not be extended to new points until such questions are resolved.

6. The ITT Companies argue that the Joint Board must consider the impact of each off-shore distinction, and develop appropriate modifications to accommodate those distinctions. Development of these modifications, the companies argue, necessarily requires additional procedures, including the possibility of adjudicative hearings to resolve disputed issues of material fact. (The companies suggest that a study group comprised of members of the Joint Board's staff and representatives of the carriers be formed to pursue the development of a negotiated agreement.) The companies also recommend that the appropriate "baseline" for this proceeding should be a "Caribbean Ozark" methodology previously submitted to the Commission during rate integration negotiations conducted in 1976. The Companies argue that while questions and concerns were raised by Commission staff during the negotiations, the proposed plan was never rejected.

Therefore, this plan is offered as a new base-line. The Companies assert that the Joint Board must consider and resolve the several distinctions regarding the Caribbean and the procedural questions raised before a separations methodology can be prescribed.

PRTA/PRTC. 7. The Puerto Rico Telephone Authority (PRTA) owner of all stock of the Puerto Rico Telephone Company (PRTC) asserted that the existing Manual should be modified by applying the Bell System nationwide weighted average subscriber plant factor (SPF) in lieu of an actual Puerto Rico SPF. PRTA/PRTC further asserted that such Bell SPF be applied for five years following the date of full rate integration, following which review could be conducted to assess the validity of continuing the proposed modification. PRTA/PRTC state that initially, at least, it is to be expected that the revenue contribution to the interstate revenue pool of Puerto Rico mainland traffic will fall somewhat short of the settlements made with the respective carriers. However, PRTA/PRTC continue "inclusion of the Puerto Rico service area is no different from inclusion of many continental service areas which similarly incur higher-than-average costs by reason of geography, population density or a host of other exogenous factors." PRTA/PRTC argued that the modification proposed is justified as a matter of equity, practicality and underlying principle.

8. Specifically, PRTA/PRTC asserted that application of the Manual will result in an advantageous distribution of revenue to mainland carriers by increasing their SPF. To off-set this result PRTA/PRTC recommended that the Bell System SPF which they asserted is 1.53 times larger than the 1976 Puerto Rico SPF, should be applied as a matter of equity to eliminate what they see as the inadequate interstate contribution to their revenue requirement. They further argue that the high degree of instability in Puerto Rico's subscriber line use factor (SLU) which can be reduced approximately 74% makes it difficult, if not impossible, to forecast interstate traffic and, thus, intrastate revenue requirements. Therefore, the use of a relatively stable SPF until the effects of rate integration are known appeared justified. Finally, they argued, the deterrent effect of long distance calling is skewed by the absences of short, low-deterrent calls, since there are no Puerto Rico mainland calls of less than 1,000 miles. PRTA/PRTC argued that for this reason, it is consistent with the existing Manual to allow some further additive factor to account for the extraordinary deterrence to off-shore toll calling applicable to Puerto Rico traffic. They asserted, therefore, that use of the Bell System SPF be adopted in lieu of some other, probably more arbitrary, adjustment to the additive composite station ratio (CSR) factor.

Virgin Islands. 9. The Government of the Virgin Islands took the position that appropriate separations and settlement procedures be adopted that will insure accomplishment of interstate rate integration, without forcing local or intrastate rates to remain higher than those on the mainland. The Government argued that Virgin Island local rates are too high and such rates have a negative impact on the economic development of the Virgin Islands. The Government argued that "(d)ivisions are constantly made to assign increasing amounts of local telephone company investment to be supported by interstate revenues, thereby keeping local telephone rates down and permitting the maximum development and utilization of telephone service." The Government asked for continued adherence to this practice and policy.

Replies

Bell System Companies. 10. The Bell companies assert that none of the comments make a showing that Puerto Rico/Virgin Island traffic and costs are so different from mainland traffic and costs to warrant different treatment necessitating changes to the existing

[4] Bell also argues that while the existing Manual apportions too high a level of costs to interstate toll operations, the present procedures, so long as they are in effect, should be applicable for settlement of interstate toll revenues derived from traffic provided at uniform joint through rates to and from Puerto Rico and the Virgin Islands.

Manual. Bell argued that the carriers should perform cost studies as soon as possible not only to determine jurisdictional separations but also to support settlements. Specifically, Bell argues that the case of *Smith* v. *Illinois Bell Telephone Co.*, 282 U.S. 133 (1930) establishes that separations should not be arbitrary and that assignment of further amounts to interstate simply to lower intra-state costs, as argued by the Virgin Islands, is not only impermissible, but also would be discriminatory. Relying on the Smith case, *supra*, Bell asserts that PRTA/PRTC's recommendation violates the "actual use" criteria set down by the Court. Moreover, Bell continues, the Commission, when it adopted the present Manual, clearly held that SPF should be determined on the basis of data in each specific study area. 26 FCC 2d 248 (1970) at 251. Bell asserts that wide variances exist on the mainland and that the PRTA/PRTC claimed SPF is within the range of SPF actually measured on the mainland. Bell further asserts that the present negotiated settlements are not pertinent in determining whether interstate revenues are adequate, rather data showing what the settlements would be if cost-based on Manual principles should be identified. Bell also asserts that the existing formula in which distance plays a significant part, will work to PRTA/PRTC's benefit as a result of its longer calling distances. To alleviate PRTA/PRTC's revenue stability concerns, Bell suggests that significant changes in interstate usage could be reflected more frequently than on the mainland, and, thus, the carriers would be able to develop reliable forecasts of interstate revenues.

11. The Bell companies replied to each point raised by the ITT companies. Bell asserted that the current Manual recognizes the various circumstances existing in the mainland states and represents a compromise of such variations. Moreover, Bell continued, the Manual makes no assumptions regarding types of local service, but merely allocates costs between inter and intrastate jurisdictions. Likewise, the procedures are not intended to allocate between interstate and foreign services, although such an allocation of the "interstate" cost will have to be made for settlement purposes in the Caribbean. Bell also asserted that, while many questions have been raised concerning the existing Manual, the Manual should be made applicable to Puerto Rico and the Virgin Islands until such time as revisions, if any, are adoted in other proceedings. Finally, Bell asserted that no need exists to convene a special task force or study group, nor make the separations methodology a subject for negotiation among the parties.

12. In their reply, the ITT Companies asserted that they had demonstrated why the existing Manual should not be adopted, that only the Bell Companies supported the existing Manual, that it is highly questionable whether the existing Manual would achieve the goal set forth by the Virgin Islands Government, and that the position of PRTA/PRTC is antithetical to the conceptual basis for the existing Manual. The ITT Companies specifically asserted that the position of the Bell Companies is merely for administrative convenience and that while some of the diversities in the Caribbean are similar to those on the mainland, the more usual case is that the diversities are unique to the Caribbean. The ITT Companies again urged that a special task force be established to conduct appropriate studies necessary to form a sound basis for developing specific separations procedures applicable to the Caribbean as distinguished from the limited studies suggested by the Bell Companies. In response to the PRTA/PRTC recommendation (use of the mainland average SPF), the ITT Companies asserted that the proposed modification ignores the basic separations criteria of "actual use." The "use" concept, they contend is specifically recognized in the existing manual and was firmly established in the benchmark decision of *Smith* v. *Illinois Bell, supra*. In conclusion, the ITT Companies avered that no agreement exists among the parties to extend the existing Manual to Puerto Rico and the Virgin Islands and that no record exists at this junction upon which the existing Manual could be prescribed.

13. PRTA/PRTC in reply also specifically disputed each of the points raised by the ITT Companies. Moreover, PRTA/PRTC asserted the alternative "Caribbean Ozark" plan proposed by the ITT Companies has not been shown to be more appropriate than the existing Manual and that its adoption would impose an unreasonable burden on local service rate payers. PRTA/PRTC also asserted that the alternative procedural approaches suggested by the ITT Companies would delay the final step of rate integration and would be directly contrary to the stated intention of the Commission. Finally, PRTA/PRTC concluded that adoption of their recommended modification would permit rate integration to proceed expeditiously, allow for adoption of a final plan when the effects of rate integration are known, and, since it would be based on the existing Manual, would make it easier to include Puerto Rico and the Virgin Islands in subsequent revisions to the Manual.

Responses

Carriers. 14. In their responsive pleadings each of the carriers reasserted their position and each recognized the need for specific implementation studies prior to the Joint Board establishing any final recommendation. Specifically the ITT Companies asserted that this Joint Board establish a data base similar to that being requested in the proceeding looking into what separations formula should be established for Alaska and Hawaii, Docket 21263. PRTA/PRTC asserted that the interim modification they recommended be adopted and the results be assessed based on actual experience. The Bell Companies on the other hand asserted that the parties have failed to justify any change in the existing Manual, and since the carriers will participate in the interstate revenue pool, they should comply with the same procedures applicable on the mainland. In response to the procedural challenges made, Bell asserted that the notice and comment procedures adopted are legally sufficient.[5]

Governments. 15. The Government of the Virgin Islands through their Public Service Commission noted that no studies have been conducted showing the effect of both rate integration and the separations Manual on the local telephone company in the Virgin Islands. Rather, they noted, all data currently available reflects the combined filings of both the local and associated Long Line carriers. The Public Service Commission suggested that adoption of the existing Manual may have a significant impact on intrastate rates and a corresponding adverse impact on the usage of telephone generally on the Virgin Islands. The Public Service Commission requested that detailed studies be ordered so that such potential impacts may be identified.

16. The State of West Virginia Public Service Commission asserted that the positions of parties advocating modifications to the existing Manual, or adopted, would be unjust and discriminatory to the other participants in the interstate revenue pool. The state

[5] In this connection, the ITT Companies in their response of March 31, 1978, stated their belief that our action of March 21, 1978 (FCC 78-207) "clearly move[s] in a positive direction toward remedying the deficiencies in this record through the additional proceeding * * * now authorized and the studies * * * now * * * require[d]."

pointed out that basic telephone rates in West Virginia are higher than the mainland average, that the existing Manual nevertheless is applicable to West Virginia and that any change to compensate for high local rates would be unjustly discriminatory towards mainland jurisdictions with high costs for basic service. The State supported the Commission's tentative preference for adoption of the existing Manual.

Part II—Comments and Studies

17. Bell, PRTA/PRTC, and the Puerto Rico Communications Authority (PRCA) filed comments supporting the staff recommendation to use the existing Separations Manual. In its comments, Bell essentially contended that any transition period should be resolved by settlement procedures not Manual modifications. Pending review of the studies performed by the carriers, Bell withheld formal endorsement of a transition period. PRTA/PRTC noted that use of the exisiting Manual together with a fifty percent traffic stimulation would result in a settlement (at a 9.5% settlement ratio) [6] better than that achieved under current revenue divisions. PRTA/PRTC argued that use of the Bell nationwide average SPF for one year would provide stability and, therefore, should be used for a transition period. PRCA, which provides service in the primarily rural areas of Puerto Rico,[7] noted that adoption of the staff recommendations and cost based settlements together with full rate integration would result in substantially larger settlements than exists under the current revenue division practice. Thus, it advocated immediate adoption of the staff recommended.

18. The ITT companies averred that adoption of the staff recommendation with full rate integration would result in large mainland subsidies and, therefore, the recommendation should not be adopted. Additionally, the ITT companies recommendation that the Joint Board request the Commission to revisit its rate integration policy.[8] The ITT companies further stated that the studies it submitted were consistent with the Joint Board's mandate and in no manner should be construed to mean adoption of the 9.5% settlement ratio as appropriate for the Caribbean. The studies demonstrated that with full rate integration VITELCO's settlements would nearly double under cost related settlements (i.e. pursuant to the Manual) as opposed to the current revenue division formula, while the ITT long lines carriers settlements under the Manual or existing percentage revenue divisions with full rate integration would be approximately the same. Such long lines settlements would be substantially less than current settlements without rate integration.[9] The ITT companies, therefore, advocated a five year rate integration phase-in with separations procedures to be adopted later.

Replies

19. In their reply pleadings Bell, PRTA/PRTC, PRCA, and the Government of the Virgin Islands each stated that the studies clearly demonstrate no adverse economic harm would result from immediate adoption of the staff recommendation. PRTA/PRTC abandoned its request for temporary use of the national average SPF noting the extraordinary growth in traffic from the first phase of rate integration. The three telephone carriers noted that the ITT companies proposal was beyond the scope of the Joint Board and not meritorious. The Government of the Virgin Islands noted that the ITT companies study clearly demonstrated that VITELCO would be better off under the staff recommendation, that objections to rate integration were without merit, that adoption of the existing Manual now will permit the off-shore locations to fully participate in the broader questions being raised in other proceedings, and that the ITT companies sole objective is protection of the extraordinary profits of the long lines carriers. It was also noted by some of the parties that adoption of the staff recommendation and adoption of cost based settlements will permit all carriers to recover their costs as well as a return on investment.[10]

Responses

20. In their responses all parties except the ITT companies stated that the staff recommendation should be adopted. The ITT companies continued to oppose the recommendation. Specifically, the ITT companies stated that the recommendation failed adequately to address points raised in its initial pleadings demonstrating differing conditions precluding use of the existing Manual. The ITT companies further asserted that rate of return questions are not before this Joint Board and that comments by the other parties concerning rate of return should be dismissed. The ITT companies further argue that facilities are not adequate to handle estimated traffic growth and that the potential problems with rate integration obviate any reasonable basis for measuring the impact of mainland procedures in the Caribbean.

Oral Presentations

21. At the open meeting, the parties each restated their previously held positions. All parties except the ITT companies argued for immediate adoption of the mainland procedures as well as immediate implementation of rate integration. The Puerto Rican carriers denied . . . that facilities were inadequate as suggested by the ITT companies. The ITT companies, while recognizing that the staff recommendations would be beneficial to VITELCO argued that some other plan might be even more beneficial. Moreover, it was asserted that facilities were not available to meet forecasted demands in the Virgin Islands. The parties did note that other issues were clouding the proceeding, i.e., rate of return and rate integration but that prompt resolution of the separations question would facilitate these other areas. The parties advocated that these other areas should be expeditiously addressed.[11]

Part III—Discussion

22. The questions raised concerning the procedures adopted by the Joint Board lack merit. This proceeding is an integral part of a Commission proceeding and is subject to the same criteria established for such proceedings. It is clear that a notice and comment procedure is legally sufficient in establishing appropriate policy. See, e.g., *Western Union International, Inc.* v. *F.C.C.*, 568 F. 2d 1012 (2d Cir. 1977), *cert. denied* 98 SC 2845 (1978); *American Telephone and Telegraph Co.* v. *F.C.C.*,

[6] For purposes of uniform studies, a settlement ratio of 9.5% was set forth by the staff. At that time, 9.5% was assumed to be the current settlement ratio. However, in all probability, the current settlement ratio is most likely higher.

[7] PRCA did not file pleadings prior to release of the staff recommendation. It is considered a party herein.

[8] Rate integration is not an issue before this Joint Board. While it is true that rate integration is dependent upon this proceeding, this Joint Board has neither the authority nor desire to interfere in other Commission proceedings. The Joint Board also notes that none of the ITT companies has directly petitioned the Commission for the relief it proposed before the Board.

[9] ITT companies' studies estimate, with full rate integration, VITELCO settlements under the Manual at $6.741M as compared to $3.319M under revenue divisions. Long Lines carriers would receive $16.471M as compared to $16.604M. Without rate integration the long lines settlements for 1978 were estimated, by ITT, to be $33.192M on the percentage divisions of revenue.

[10] The ITT companies voluntarily elected not to file a reply pending action on a motion to comply which was subsequently denied, pursuant to our direction, by the Chief, Common Carrier Bureau.

[11] In addition to the carriers, oral presentations were made on behalf of the Governor of Puerto Rico and the government of the Virgin Islands.

No. 77–4057 et al. (2d Cir. January 26, 1978). The Joint Board's procedures not only afforded the parties the opportunity to file comments, replies and responses, but also the opportunity to criticize the staff recommended report and order and to file further pleadings and specific studies in connection with that staff recommendation. Finally, the parties were afforded the opportunity to participate in oral argument before the Joint Board after all the filings were made. These later steps are not required by Commission rules. Clearly all parties have been afforded extraordinary due process.

23. The ITT companies arguments relating to the appropriateness of using the existing Separations Manual as a base-line for our deliberations are similarly without merit. The Commission's mandate to the Joint Board was to determine what changes, if any, should be made to the existing Separations Manual. The Commission noted their initial impression that the existing Manual should apply. However, all parties have had an opportunity to advocate appropriate changes. It should be noted that with the advent of full rate integration, the carriers will participate in the interstate revenue pool. The existing Manual applies to all other participants in the pool, and it is reasonable to use it as a departure point in this proceeding. The extent of the changes were limited only by a requirement that proposed changes be supported. Such changes could have included an entirely new plan if supported in a manner permitting the Board to make a reasoned decision. The ITT Companies have not petitioned the Commission to modify the mandate of the Joint Board nor have they properly advocated another plan for the Board's consideration.[12] The argument made by the ITT companies that the inapplicability of the existing Manual has been demonstrated is merely a conclusory assumption and does not support further consideration by this Joint Board. Moreover, assuming *arguendo* that the inappropriateness had been demonstrated, the ITT Companies failure to advocate specific changes or to seriously advocate another plan leaves no option to consider what other separations methodology should be employed.[13]

24. The parties have offered various interpretations of the *Smith v. Illinois Bell* case, *supra* as well as many questions concerning the general appropriateness of the existing manual in light of recent Congressional and Commission actions. The Joint Board sees no need to comment on the proper interpretations of the *Smith* case except to point out that the holding recognizes that a rational approach be adopted in allocating costs between inter and intrastate jurisdictions. The existing Manual is, in our opinion, such an approach. As to the broad questions raised concerning the existing Manual, we note that the Commission is addressing certain of these questions in the context of other proceedings, e.g., FCC Docket Nos. 20981 and 78–72. The Board also notes that the Congress is addressing the entire area of separations and settlements in the context of proposed changes to, and rewrite of, the Communications Act. However, such concerns are not before the Joint Board. We are charged with preparing a recommended decision based on the current status of the law and regulations. To await future potential action(s) clearly would not be in the public interest. In fact, our action herein will place Puerto Rico and the Virgin Islands on an equal footing with the mainland states and will facilitate implementation of any overall amendments as they occur. Therefore the ITT Companies plea that we delay decision pending conclusion of these other efforts will be rejected.

25. In the responsive pleadings to the staff recommended report and order, the ITT Companies reasserted certain arguments made in their initial comments by stating that the staff recommendation failed to adequately address these arguments. Waiting to reassert such arguments in the final formal pleading precluded other parties from replying to such arguments and therefore could be considered an improper pleading. Nevertheless, we will address them.[14] The ITT Companies assert that separations conflicts with the Commission's Domsat orders, is in conflict with the principles of Docket 18128, is premised on flat-rate pricing, fails to recognize different calling patterns, ignores cultural distinctions, does not recognize international traffic, is based on unlimited toll routing, and that the existing Manual was negotiated following numerous studies. The ITT Companies further assert that the existing Manual fails to achieve the objectives for which it was originally designed. Finally the ITT Companies assert that the Manual does not provide for recognition of unique Caribbean facilities such as earth stations, satellite leases, etc.

26. As noted earlier the scope of this Joint Board's authority is limited to the applicability of the existing manual and what changes, if any, should be made to it in order for it to be applicable to Puerto Rico and the Virgin Islands. Arguments concerning the broad questions raised concerning the Manual's achievement of intended goals are not before us and therefore, need not be addressed. Also, we have demonstrated that the proceures adopted by the Joint Board are more than adequate to enable us to reach a reasoned, lawful decision.

27. The arguments concerning the alleged conflict between the Domsat orders and Docket 18128 and the separations procedures are spacious. Separations allocates costs between jurisdictions. Docket 18128 requires that such allocated costs be properly assigned to services while the Domsat orders recognize that the cost savings inherent in satellite service support rate integration. The argument that the Manual fails to recognize international calling is not correct. International traffic for separations purposes is interstate and while settlements may require additional studies to segregate such costs and revenues, this result does not affect separations procedures. The arguments on cultural distinctions, limited call routing, and metered use rather than flat rate pricing are not meritorious. Separations allocates plant investment and costs and any additional costs resulting from such alleged unique conditions are accommodated under the existing Manual. Finally, as noted by the Bell responsive pleadings, regardless of the nature of the facility, i.e., earth stations, satellite leases, the costs associated with their use can be assigned to the proper jurisdiction under the existing Manual. For these reasons, the ITT Companies assertions that the existing Manual cannot be applied to the Caribbean are without merit.

28. Rather than immediately acting on the staff recommendation, as previously noted, we requested the parties to perform studies consistent with the recommendation and to demonstrate the economic impact on the companies should settlements at a 9.5% rate of return be made. The results of these studies were compared to settlements based solely on the current division of revenues formula on mainland-Puerto Rico/Virgin Islands traffic. Although settlements are not before the Joint Board, it was our belief that such

[12] Transcript, pp. 138–139.

[13] It is a well settled principle in rulemaking proceedings that the burden of going forward with changes in an established rule rests on the party seeking such changes.

[14] It should be noted that the staff recommended decision, para. 17, addressed the differing conditions arguments and properly dismissed them. *See Separations Procedures* 26 FCC 2d at 253.

analysis was necessary since, on the mainland, settlements are generally based on separations studies. The aforementioned studies clearly demonstrate that the local telephone companies, PRTC, PRCA, and VITELCO, would receive more revenues under the separations and settlement ratio assumptions we set forth than under current revenue divisions. Adoption of the staff recommendation would, therefore, have a beneficial impact on the local jurisdictions. The only adverse financial impact (as compared with present revenue divisions) which we could discern was on the long lines carriers, AAC&R and CIVI. Such impact however, will be substantially reduced with the advent of full rate integration. It is clear to the Joint Board that the adverse impact was the result of the settlement ratio, 9.5%, set forth as a criterion for the studies together with rate integration, but that the long lines carriers would always recover their costs under the staff recommendation. Since settlements are not before the Joint Board, it is clear that should the long lines carriers seek relief from the adverse financial impact, such relief would have to be sought in another forum. Based on the assumption that settlements will flow from separations and that all carriers will recover their costs and a return on investment, we find no good reason to defer final action by this Joint Board or the Commission.

29. The record made in this proceeding clearly demonstrates that the existing separations manual can be applied to Puerto Rico and the United States Virgin Islands. The existing manual will not unfairly nor unreasonably treat any party. With the advent of full rate integration, Puerto Rico and the Virgin Islands will, for the purposes of MTS and WATS, be treated as any mainland state and will also participate in the interstate revenue pool.[15] Adoption of the existing separations procedures will result, therefore, in such participation on the same basis as the mainland states. Participation in this manner is clearly consistent with the Commission's stated goal in its Domsat order to minimize distinctions in communications between the mainland and the off-shore points.[16] Participation on an equal basis with the mainland will, of course, permit these off-shore locations to be treated in any modification to the Manual. From all of the foregoing the Joint Board is firmly of the opinion that adoption of the staff recommendation, i.e., use of the existing Separations Manual, would be in the public interest and is supported by the record.[17]

Conclusion

30. We have given careful consideration to the staff recommended report and order, the parties filings and implementation studies, the points raised in oral argument, and past Commission actions concerning separations matters. Based thereon it is the Joint Board's conclusion that the existing separations methodology prescribed for the mainland be made applicable to Puerto Rico and the United States Virgin Islands. While the issue of settlements is not before us, we conclude that adoption of the Joint Board's recommendation as a methodology for the development of cost based settlements will not have an adverse economic impact on the local telephone companies. We further conclude that settlements questions, if necessary, can be expeditiously addressed in other appropriate proceedings upon adoption of this recommended decision by the Commission.

31. Accordingly, it is recommended, that the following form of order be adopted by the Commission:

It is ordered, That, pursuant to the provisions of Sections 4(i), 205, 213, 221(c), 221(d) and 403 of the Communications Act of 1934, as amended, the NARUC–FCC Separations Manual, which is incorporated by reference into Part 67 of the Commission's rules and regulations, shall apply to Puerto Rico and the United States Virgin Islands.

It is further ordered, That Part 67 of the Commission's Rules and Regulations, 47 CFR Part 67 is amended by adding the following sentence:

These Separations procedures apply to Puerto Rico and the United States Virgin Islands.

FCC–NARUC Joint Board on Jurisdictional Separations.

[FR Doc. 79-22771 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

[15] The studies submitted in this proceeding clearly demonstrate that full rate integration accompanied by current divisions of revenues rather than Manual based settlements would have severe adverse impacts on the local telephone companies since they would not recover their interstate revenue requirements.

[16] *Domestic Communications-Satellite Facilities*, 35 FCC 2d at 856, 859, *Reconsideration* 38 FCC 2d at 695–697.

[17] We note that all parties except the ITT Companies support this finding. It is further noted that with the advent of full rate integration our conclusion will be more beneficial to VITELCO when settlements are based on separations rather than on division of revenues.

47 CFR Part 73

[BC Docket No. 78–79; RM–3006]

FM Broadcast Station in Rosamond, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Rosamond, California, in response to a petition filed by Israel Sinofsky. The assigned channel would provide a first local aural broadcast service to the community.

EFFECTIVE DATE: August 27, 1979.

ADDRESS: 5 Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: July 13, 1979.

Released: July 19, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Rosamond, California), BC Docket No. 78–79, RM–3006.

1. By *Notice of Proposed Rule Making*, released March 2, 1978, 43 FR 9510, the Commission proposed the assignment of Class A FM Channel 288A to Rosamond, California (pop. 2,281).

2. Petitioner, Israel Sinofsky, who is urging the assignment, had stated that Rosamond is not located near an urbanized area. While he recognized that Rosamond receives service from stations in three other communities in the area, including Lancaster (30,948), Palmdale (8,511) and Mojave (2,573), he asserted that it has no locally originated source of information, expression and advertising. Petitioner asserted that Rosamond's population has increased substantially since the 1970 Census, and stated he will apply for permission to construct a facility on Channel 288A if the assignment is made.

3. In response to the *Notice*, Sinofsky reiterated his interest in such an assignment. The only other party filing comments, Lancaster-Palmdale Broadcasting Corporation ("LPB"), licensee of Stations KKZZ(AM) and KOTE(FM) in Lancaster, and KDOL(AM/FM) in Mojave, asserted in opposing the proposal that such an assignment would be inappropriate. LPB contends that Rosamond is actually a suburb of Lancaster (some 10 miles

removed), and is not so isolated from urbanized areas with existing stations as petitioner contends. LPB also contended that no significant population would be provided with a first or second aural service by the assignment, and that "Rosamond's problems are no different in any material degree" from those of other communities with licensed stations in the area.[1] Petitioner disputes LPB on several counts.

4. We believe Rosamond can benefit from its first locally originated aural service, and see no public interest to be served by denying this assignment. There is no question that Rosamond is of sufficient size to warrant such an assignment absent unusual conditions. There is no requirement in Commission policy that first or second aural service be established for a Class A assignment such as this, nor does the Commission restrict assignments to incorporated communities. While LPB contends the community's needs do not materially differ from those of surrounding local communities, this is a judgment better made by an independent licensee attempting to serve its local community of license than by a competitor operating four stations in the immediate vicinity. Rosamond is well outside the urban area of Lancaster, and the exact location or telephone listings of local employers are not determinative of an area's identity as a community sufficient to warrant an FM assignment. Such judgments are open to detailed examination at the application stage, but on the record before us here we believe the various indicia of common interests in Rosamond support such an assignment as was indicated in the *Notice*.

5. Accordingly, it is ordered, That effective August 27, 1979, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the community named is concerned, as follows:

City	Channel No.
Rosamond, California	288A

6. It is further ordered, That this proceeding is terminated.

7. For further information on this proceeding, contact Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

[1] LPB also offers other assertions along with its contention that no support for such an assignment has been established in terms of demand for local advertising. This matter is not a proper question to resolve here but is an issue properly addressed at the application stage of proceedings. *Adrian, Michigan*, 37 F.C.C. 2d 1021 (1972).

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-22769 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70, 73, and 150

Safeguard Requirements for Special Nuclear Material of Moderate and Low Strategic Significance

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations for physical protection of plants and materials, including nonpower reactors, to require physical protection measures to detect theft of special nuclear material of moderate and low strategic significance. The amendments are being made in the interest of common defense and security. The measures are designed to provide a level of protection equivalent to that recommended in Information Circular/225/Rev. 1 (INFCIRC/225) published by the International Atomic Energy Agency (IAEA). The amendments specify protection requirements for special nuclear material at fixed sites, including nonpower reactors, and for special nuclear material in transit.

Physical protection requirements for independent spent fuel storage installations and nuclear power reactors are presently covered under 10 CFR § 73.40, § 73.50, and § 73.55 and therefore are not included in these amendments.

Concurrent with the publication of the amendments, the NRC is publishing a regulatory guide entitled, "Standard Format and Content for the Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." This document has been prepared as an aid to uniformity and completeness in the preparation and review of the physical security plan for special nuclear material of moderate and low strategic significance. In addition, a value/impact assessment of these amendments has been prepared and placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

EFFECTIVE DATE: November 21, 1979.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of its reporting requirement under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, includes a 45-day period which that statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: Mr. J. A. Prell, Safeguards Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443-5904 or Mr. C. K. Nulsen, Requirements Analysis Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427-4043.

SUPPLEMENTARY INFORMATION: On May 24, 1978 the Nuclear Regulatory Commission published in the **Federal Register** (43 FR 22216) proposed amendments to 10 CFR Parts 70, 73, and 150 of its regulations. Interested persons were invited to submit written comments and suggestions on the proposed amendments within thirty days after publication in the **Federal Register.** Based on the public comments and other considerations, the Commission has adopted the proposed amendments, with modifications as set forth below.

The effective physical protection amendments are designed to have overall equivalency to the recommendations of INFCIRC/225 Rev. 1, but there are differences in the detailed requirements. INFCIRC/225 Rev. 1 recommendations are designed to minimize the possibilities of theft or sabotage of SNM of moderate or low strategic significance. The effective amendments have been primarily designed to require early detection of theft of SNM of moderate or low strategic significance. However, in requiring early detection capabilities, these amendments deter the possibilities of theft or diversion. In the judgment of the Commission, the degree of protection afforded by the containment, monitoring and detection procedures required by these amendments provide equivalency to the INFCIRC/225 Rev. 1 recommendations for protection of theft or diversion of SNM.

Significant differences from the proposed rule published for comment on May 24, 1978 are: (1) Plutonium-Beryllium (PuBe) sealed sources would be exempted from the physical protection requirements; (2) Plutonium with isotopic concentration exceeding 80 percent in plutonium-238 would be exempted from the physical protection requirements; (3) package and vehicle search requirements at facilities where special nuclear material of moderate strategic significance is used or stored have been changed; (4) The period of time allotted for submittal of a licensee plan to implement these requirements has been changed from 60 days to 120

days after the effective date of the amendment. In addition, editorial and clarifying changes were made and some definitions added to clarify the intent of the regulations.

The following discussion pertains to items (1) through (4) above.

(1) PuBe sealed sources—Commenters stated that the cost of providing the required physical protection for PuBe sealed sources would be prohibitive from the point of view of the limited budgets available at universities where most of the sources are now located. Imposition of the proposed requirements, it was said, would result in the curtailment of the use of PuBe sources at some sites with a significant impact on the educational and research programs at those institutions. In view of the very small quantities of plutonium found in PuBe sealed sources (generally, from 16 to 161 grams) and the fact that potential adversaries wishing to obtain a 5 kg formula quantity of plutonium would have to commit separate acts of theft at a large number of widely separated sites without being detected, the Commission has decided that the threat to the common defense and security of this country was sufficiently low that physical security measures should not be required for PuBe sealed sources. There is an upper limit of 500 grams of plutonium to which this exemption can be applied because greater than a 500 gram accumulation of plutonium in this form invalidates the basis for this exemption. IAEA guidelines allow for such exceptions in the case of research type facilities.

(2) More than 80 percent Pu–238—The proposed rule has been amended to reflect that plutonium with isotopic concentration exceeding 80 percent in plutonium-238 would be exempted from the physcial protection requirements. This change corrects an oversight in the initially proposed amendments in which it was intended that such material would be exempted to be consistent with the definitions of Category II and III material in the IAEA document INFCIRC/225/Rev. 1.

(3) Search requirements—Package and vehicle search requirements at facilities at which special nuclear material of moderate strategic significance is used or stored have been changed. As revised, random searches are only required regarding items leaving controlled access areas, and not of those entering. The primary objective of entry searches is to detect materials which could be useful in sabotage. Since protection against sabotage is not within the scope of the proposed amendments, an entry search requirement is not necessary.

(4) Submission and Implementation of Plans—Several commenters stated that more time would be needed than the sixty days allowed for submission of physical security plans, or amendments to them, following the date the proposed amendments become effective.

The Commission agrees that more time may be required, especially in the case of licensees who have limited managerial and finacial resources, and has changed the submission date to be 120 days following the effective date of the amendment. In addition, the licensee is now required to implement the approved security plan within 240 days following the effective date of the amendment or within 30 days after the plan is approved, whichever is later.

Concurrent with the publication of the amendments, the NRC is publishing a guide entitled "Standard Format and Content for the Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." The guide is being published for a sixty-day comment period and will be reissued with comments taken into consideration. The amendments to 10 CFR Parts 70, 73 and 150 would become effective at this time (120 days after publication) (November 21, 1979). Licensees would therefore have 240 days after publication of the amendments to submit their plans. The plan would have to be implemented 30 days after approval by the Commission or 360 days after (date of publication in the **Federal Register**) (July 24, 1979)

Another area of comment dealt with employee screening. Some of the licensees interpreted the screening requirement to call for a full field background investigation of all personnel entering the controlled access areas where the material is used or stored. The wording of the rule has been revised to more clearly indicate that the requirement is merely one requiring a screening based on knowledge of persons permitted access rather than a formal security investigation. The guidance package being issued with the rule explains more fully the intent of this requirement.

There was one other area of comment for which no specific changes were made to the amendments but which is of significance. These comments dealt generally with the technical jutification for the proposed amendments.

Many of the commenters questioned the technical justification for the proposed amendments on the basis of the a lack of detailed information regarding the threat; the additional costs of implementation they perceived to be incommensurate with only marginal improvements in physical protection; and the impacts on the licensees' ongoing educational and research programs. Particular attention was focuses by some commenters on the physical protection requirements for low enriched uranium.

The technical justification for the U.S. adoption of the proposed amendments is contingent on both domestic and international factors, which are closely interrelated. Current NRC physical protection regulations apply primarily to strategic special nuclear material (uranium enriched in the isotope U–235 to 20% or greater, U–233, and plutonium) in quantities of five formula kilograms or greater. There are no specific physical protection requirements for quantities in lesser amounts. Yet, it can be properly argued that a 4.9 formula kilogram quantity of SNM is about as important a quantity as 5.0 kilograms. Multiple thefts of such materials in close to formula quantities could result in the accumulation of more than a formula quantity. The proposed detection requirements are considered to provide sufficient protection with minimum added cost so as not to affect educational and research programs. Since the requirements are of a detection nature rather than prevention, characterization of the adversary in the regulations was deemed not to be necessary.

In regard to low enriched uranium (LEU) (enrichments less than 20%), clandestine enrichment to higher levels may go beyond the capability of subnational terrorists, but it does not go beyond the capability of other governments. Unless properly safeguarded, low enriched uranium could be stolen on behalf of foreign governments and enriched to explosive useable levels after it is smuggled out of the U.S.

The Nuclear Non-Proliferation Act of 1978 specifies that NRC shall promulgate regulations which assure that physical security measures are provided to special nuclear materials exported from the United States without specifying whether the materials are low enriched uranium or high enriched uranium. Pursuant to this legislation, the Commission has promulgated 10 CFR Part 110.43 which provides among other things that:

"(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material will be based on available relevant information and written assurances from the recipient country or

group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained."

While the proposed amendments would provide a needed extension of domestic physical protection to special nuclear materials for which the level of physical protection required was not previously specified, the full value of such protection could not be realized until similar protection is afforded all such material among the nations utilizing such materials. Physical protection measures similar to those proposed, which are based on the recommendations of the IAEA Information Circular INFCIRC/225/Rev. 1, have already been adopted by several countries.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 70, 73, and 150 are published as a document subject to codification.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. Paragraph 70.22(g) of 10 CFR Part 70 is revised to read as follows:

§ 70.22 Contents of Applications

* * * * *

(g) Each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) of this chapter shall include (1) a description of the plan for physical protection of special nuclear material in transit in accordance with §§ 73.30 through 73.36, 73.47 (a) and (c), 73.47(g) for 10 kg or more of special nuclear material of low strategic significance, and 73.70(g) of this chapter including, as appropriate, a plan for the selection, qualification and training of armed escorts, or the specification and design of a specially designed truck or trailer, and (2) a licensee safeguards contingency plan or response procedures, as appropriate, for dealing with threats, thefts, and industrial sabotage relating to the special nuclear material in transit. Each application for such a license involving formula quantities of strategic special nuclear material shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to 10 CFR Part 73, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)

2. Paragraph 70.22(h) of 10 CFR Part 70 is revised to read as follows:

* * * * *

(h) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U–235 + 2.5 (grams U–233 + grams plutonium), other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan, consisting of two parts. Part I shall address vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to meet the requirements of §§ 73.40, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed. Part II shall list tests, inspections, and other means to demonstrate compliance with such requirements.

3. Section 70.22 is amended to add a new paragraph (k) to read as follows:

* * * * *

(k) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee special nuclear material of moderae strategic significance or 10 kg or more of special nuclear material of low strategic significance as defined under paragraphs 73.2 (x) and (y) of this chapter, other than a license for possession or use of such material in the operation of a nuclear power reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan which shall demonstrate how the applicant plans to meet the requirements of paragraph 73.47 (d), (e), (f) and (g), as appropriate, of Part 73 of this chapter.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

4. Paragraph 73.1(b) of 10 CFR Part 73 is revised to read as follows:

§ 73.1 Purpose and Scope.

* * * * *

(b) *Scope*

(1) This part prescribes requirements for (i) the physical protection of production and utilization facilities licensed pursuant to Part 50 of this chapter; (ii) the physical protection of plants in which activities licensed pursuant to Part 70 of this chapter are conducted, and (iii) the physical protection of special nuclear material by any person who, pursuant to the regulations in Part 70 of this chapter, possesses or uses at any site or contiguous sites subject to the control by the license, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

(2) This part prescribes requirements for the physical protection of special nuclear material in transportation by any person who is licensed pursuant to the regulations in Part 70 and Part 110 of this chapter who imports, exports, transports, delivers to a carrier for transport in a single shipment, or takes delivery of a single shipment free on board (f.o.b) where it is delivered to a carrier, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

5. Section 73.2 of 10 CFR Part 73 is amended by revising paragraph (b) and adding new paragraphs (x), (y), (z), (aa) and (bb) to read as follows:

§ 73.2 Definitions.

* * * * *

(b) "Authorized individual" means any individual, including an employee, a student, a consultant, or an agent of a licensee who has been designated in writing by a licensee to have responsibility for surveillance of or control over special nuclear material or to have unescorted access to areas where special nuclear material is used or stored.

* * * * *

(x) "special nuclear material of moderate strategic significance" means:

(1) less than a formula quantity of strategic special nuclear material but more than 1000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U–235 isotope) or more than 500 grams of uranium-233 or plutonium or in a combined quantity of more than 1000 grams when computed by the equation, grams = (grams contained U–235) + 2 (grams U–233 + grams plutonium), or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U–235 isotope).

(y) "special nuclear material of low strategic significance" means:

(1) less than an amount of strategic special nuclear material of moderate strategic significance, as defined in § 73.2(x)(1), but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U–235 isotope) or 15 grams of uranium-233

or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = grams contained U-235 + grams plutonium + grams U-233, or

(2) less than 10,000 grams but more than 1000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope), or

(3) 10,000 grams or more of uranium-235 contained in uranium enriched above natural but less than 10 percent in the U-235 isotope.

(z) "Controlled access area" means any temporarily or permanently established area which is clearly demarcated, access to which is controlled and which affords isolation of the material or persons within it.

(aa) "Strategic special nuclear material" means uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium.

(bb) "Formula quantity" means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formnula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium).

6. A new § 73.47 is added to 10 CFR Part 73 to read as follows:

§ 73.47 Licensee Fixed Site and In-Transit Requirements For The Physical Protection of Special Nuclear Material of Moderate and Low Strategic Significance.

(a) General Performance Objectives

(1) Each licensee who possesses, uses or transports special nuclear material of moderate or low strategic significance shall establish and maintain a physical protection system that will achieve the following objectives:

(i) Minimize the possibilities for unauthorized removal of special nuclear material consistent with the potential consequences of such actions; and

(ii) Facilitate the location and recovery of missing special nuclear material.

(2) To achieve these objectives, the physical protection system shall provide:

(i) Early detection and assessment of unauthorized access or activities by an external adversary within the controlled access area containing special nuclear material;

(11) Early detection of removal of special nuclear material by an external adversary from a controlled access area;

(iii) Assure proper placement and transfer of custody of special nuclear material; and

(iv) Respond to indications of an unauthorized removal of special nuclear material and then notify the appropriate response forces of its removal in order to facilitate its recovery.

(b)(1) A licensee is exempt from the requirements of this section to the extent that he possesses, uses, or transports (i) special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding or (ii) sealed plutonium-beryllium neutron sources totaling 500 grams or less contained plutonium at any one site or contiguous sites or (iii) plutonium with an isotopic concentration exceeding 80 percent in plutonium-238.

(2) A license who has quantities of special nuclear material equivalent to special nuclear material of moderate strategic significant distributed over several buildings may, for each building which contains a quantity of special nuclear material less than or equal to a level of special nuclear material of low strategic significance, protect the material in that building under the lower classification physical security requirements.

(c) Each licensee who possesses, uses, transports or who delivers to a carrier for transport special nuclear material of moderate strategic significance of 10 kg or more of special nuclear material of low strategic significance shall:

(1) Submit by [date 120 days from effective date of amendment] a security plan or an amended security plan describing how the licensee will comply with all the requirements of Sections 73.47 (d), (e), (f), and (g), as appropriate, including schedules of implementation; and

(2) Within 240 days after the effective date of these amendments or 30 days after the plan(s) sumitted pursuant to paragraph (c)(1) of this section is approved, whichever is later, implement the approved security plan

(d) Fixed Site Reguirements for Special Nuclear Material of Moderate Strategic Significance—Each licensee who possesses, stores, or uses quantities and types of special nuclear material of moderate strategic significance at fixed sites, except those who are licensed to operate a nuclear power reactor pursuant to Part 50, shall:

(1) use the material only within a controlled access area which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(2) store the material only within a controlled access area such as a vault-type room or approved security cabinet or their equivalent which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(3) monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetration or activities,

(4) conduct screening prior to granting an individual unescorted access to the controlled access area where the material is used or stored, in order to obtain information on which to base a decision to permit such acceess,

(5) develop and maintain a controlled badging and lock system to identify and limit access to the controlled access areas to authorized individuals,

(6) limit access to the controlled access areas to authorized or escorted individuals who require such access in order to perform their duties,

(7) assure that all visitors to the controlled access areas are under the constant escort of an individual who has been authorized access to the area,

(8) establish a security organization or modify the current security organization to consist of at least one watchman per shift able to assess and respond to any unauthorized penetrations or activities in the controlled access areas,

(9) provide a communication capability between the security organization and appropriate response force,

(10) search on a random basis vehicles and packages leaving the controlled access areas, and

(11) establish and maintain response procedures for dealing with threats of thefts or thefts of such materials.

(e) In-Transit Requirements for Special Nuclear Material of Moderate Strategic Significance—

(1) Each licensee who transports, exports or delivers to a carrier for transport special nuclear material of moderate strategic significance shall:

(i) provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) receive confirmation from the receiver prior to the commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) transport the material in a tamper-indicating sealed container,

(iv) check the integrity of the containers and seals prior to shipment, and

(v) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(e)(3) of this part unless the receiver is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(2) Each licensee who receives special nuclear material of moderate strategic significance shall:

(i) check the integrity of the containers and seals upon receipt of the shipment,

(ii) notify the shipper of receipt of the material as required in Section 70.54 of Part 70 of this chapter, and

(iii) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(e)(3) of this part unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee, either shipper or receiver, who arranges for the physical protection of special nuclear material of moderate strategic significance while in transit or who takes delivery of such material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) arrange for a telephone or radio communications capability, for notification of any delays in the scheduled shipment, between the carrier and the shipper or receiver,

(ii) minimize the time that the material is in transit by reducing the number and duration of nuclear material transfers and by routing the material in the most safe and direct manner,

(iii) conduct screening of all licensee employees involved in the transportation of the material in order to obtain information on which to base a decision to permit them control over the material,

(iv) establish and maintain response procedures for dealing with threats of thefts or thefts of such material,

(v) make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(vi) conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated time and report to the Nuclear Regulatory Commission as specified in § 73.71 and to the shipper or receiver as appropriate. The licensee who made the physical protection arrangements shall also immediately notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A of the action being taken to trace the shipment.

(4) Each licensee how exports special nuclear material of moderate strategic significance shall comply with the reqirements specified in § 73.47(c), (e)(1) and (e)(3).

(5) Each licensee who imports special nuclear material of moderate strategic significance shall,

(i) comply with the requirements specified in § 73.47(c) (e)(2) and (e)(3) and

(ii) notify the exporter who delivered the material to a carrier for transport of the arrival of such material.

(f) Fixed Site Requirements for Special Nuclear Material of Low Strategic Significance—Each licensee who possesses or uses special nuclear material of low strategic significance at fixed sites, except those who are licensed to operate a nuclear power reactor pursuant to Part 50, shall:

(1) store or use the material only within a controlled access area,

(2) monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetrations or activities,

(3) assure that a watchman or offsite response force will respond to all unauthorized penetrations or activities, and

(4) establish and maintain response procedures for dealing with threats of thefts or thefts of such material.

(g) In-Transit Requirements for Special Nuclear Material of Low Strategic Significance—

(1) Each licensee who transports or who delivers to a carrier for transport special nuclear material of low strategic significance shall:

(i) provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) receive confirmation from the receiver prior to commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) transport the material in a tamper indicating sealed container,

(iv) check the integrity of the containers and seals prior to shipment, and

(v) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(g)(3) of this part, unless the receiver is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(2) Each licensee who receives quantities and types of special nuclear material of low strategic significance shall:

(i) check the integrity of the containers and seals upon receipt of the shipment,

(ii) notify the shipper of receipt of the material as required in § 70.54 of Part 70 of this chapter, and

(iii) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(g)(3) of this part, unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee, either shipper or receiver, who arranges for the physical protection of special nuclear material of low strategic significance while in transit or who takes delivery of such material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) establish and maintain response procedures for dealing with threats of thefts or thefts of such material,

(ii) make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(iii) conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and report to the Nuclear Regulatory Commission as specified in § 73.71 and to the shipper or receiver as appropriate. The licensee who made the physical protection arrangements shall also immediately notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A of the action being taken to trace the shipment.

(4) Each licensee who exports special nuclear material of low strategic significance shall comply with the appropriate requirements specified in § 73.47(c), (g)(1) and (g)(3).

(5) Each licensee who imports special nuclear material of low strategic significance shall:

(i) comply with the requirements specified in § 73.47(c), (g)(2) and (g)(3), and

(ii) notify the person who delivered the material to a carrier for transport of the arrival of such material.

7. Section 73.71(a) of 10 CFR Part 73 is revised to read as follows:

§ 73.71 Reports of unaccounted for shipments, suspected theft, unlawful diversion, or industrial sabotage.

(a) Each licensee who conducts a trace investigation of a lost or unaccounted for shipment pursuant to § 73.36(f), § 73.47(e)(3)(vi), or § 73.47(g)(3)(iii) shall immediately report to the appropriate NRC Regional Office listed in Appendix A the details and results of his trace investigation and shall file within a period of fifteen (15) days a written report to the appropriate NRC Regional Office setting forth the details and results of the trace investigation. A copy of such written report shall be sent to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

* * * * *

8. Section 73.72 of 10 CFR Part 73 is revised to read as follows:

§ 73.72 Requirement for advance notice of shipment of special nuclear material.

Each licensee who plans to import, export, transport, deliver to a carrier for transport in a single shipment, or take delivery at the point where it is delivered to a carrier, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance shall notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A by U.S. Mail, postmarked at least 7 days in advance of the shipping date. The following information shall be furnished in the advance notice: shipper, receiver, carrier(s), estimated date and time of departure and arrival, transfer point(s), and mode(s) of shipment. The Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office shall also be notified by telephone 7 days in advance of the shipping date that an advance shipping notice has been sent by mail, and of any changes to the shipment itinery prior to the shipment date. Road shipments or transfers with one-way transit times of 1 hour or less in duration between installations of a licensee are exempt from the requirements of this section.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

9. 10 CFR Part 150 is amended to add a new Section 150.14 to read as follows:

§ 150.14 Commission Regulatory Authority for Physical Protection.

Persons in Agreement States possessing, using or transporting special nuclear material of low strategic significance in quantities greater than 15 grams of plutonium or uranium-233 or uranium-235 (enriched to 20 percent or more in the U–235 isotope) or any combination greater than 15 grams when computed by the equation grams = grams uranium-235 + grams plutonium + grams uranium-233 shall meet the physical protection requirements of § 73.47 of 10 CFR Part 73.

EFFECTIVE DATE: November 21, 1979.

(Sec. 53, 161i, Pub. Law 83–703, 68 Stat. 948, Pub. Law 93–377, 88 Stat. 475; Sec. 201, Pub. Law 93–438, 88 Stat. 1242–1243, Pub. Law 94–79, 89 Stat. 413 (42 U.S.C. 2073, 2201, 5841).)

Dated at Washington, D.C. this 18th day of July, 1978.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-22971 Filed 7-23-79; 8:45 am]

BILLING CODE 7590-01-M

Proposed Rules

Federal Register
Vol. 44, No. 143
Tuesday, July 24, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 226]

Child Care Food Program

Correction

In FR Doc. 79-20396 appearing at page 39077 in the issue for Tuesday, July 13, 1979, make the following corrections:

(1) On page 39078, in the first column, under the heading **SUPPLEMENTARY INFORMATION,** in the second paragraph, in the 5th line, insert the word "limit" between the words "time" and "for".

(2) On page 39078, in the middle column, in the 18th line from the top of the page, insert the word "final" between the words, "affect" and "regulatory".

(3) On page 39080, in the third column, under the heading **III. State Responsibility,** in the paragraph designated by *"2. Application approval,"* in the 1st line, substitute, "Pub. L. 95-627" for "The statute".

(4) On page 39082, in the middle column, in the paragraph designated by *"8. Procurement standards,"* in the 8th line, replace the word "finds" with the word "funds".

(5) On page 39083, in the middle column, in the pargraph designated by *"6. Audits,"* in the 7th line, insert the word "audit" between the words "the" and "biennial".

(6) On page 39083, in the middle column, in the pargraph designated by *"6. Audits,"* in the 10th line, substitute "audit" for "audity.

(7) On page 39087, in the first column, in § 226.2(e), in the 6th line, insert the word "not" between the words "but" and "limited".

(8) On page 39091, in the middle column, in § 226.7(d)(2), the 26th line should read, "or certificates with any applicable State or".

(9) On page 39091, in the middle column, in § 226.7(d)(3), in the 28th line, replace the word "Page" with the word "Program".

(10) On page 39091, in the middle column, in § 226.7(d)(3), in the 32nd line, replace the word "indicated" with the word "indicates".

(11) On page 39096, in the third column, in § 226.16(a), in the 10th line, substitute "tax-exempt" for "tax-exept" and replace the word "any" with the word "may".

(12) On page 39098, in § 226.17(c), in the 2nd line, replace the word "is" with the word "as".

(13) On page 39100, in the third column, in § 226.20(c), in the introductory paragraph, in the 3rd line, insert the prefix "sub" before the word "paragraphs".

(14) On page 39100, in the third column, in § 226.20(c)(2)(iii), in the 2nd line, insert the word "four" between the words "following" and "components".

(15) On page 39100, in the third column, in § 226.20(c)(3), in the 1st line, insert the number "1" in front of the word "cup".

(16) On page 39105, in the third column, in § 226.25(b)(3)(ii)(D), in the 9th line, replace "(b)(2) and (3)" with "(b)(2) and (b)(3)"

BILLING CODE 1505-01-M

Agricultural Marketing Service

[7 CFR Part 924]

Handling of Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oreg.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal to exempt designated handlers from inspection and certification requirements of this order under a waiver of inspection procedure. This is designed to provide for orderly marketing in the interests of producers and consumers.

DATES: Comments must be received by August 8, 1979.

ADDRESSES: Send comments to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Consideration is being given to the following waiver of inspection rule proposal, recommended by the Washington-Oregon Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proposal has not been determined significant under USDA criteria for implementing Executive Order 12044.

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the need to grant certain handlers waivers of inspection and certification. Some handlers are located in areas remote from inspection offices. They would be eligible for a waiver if an inspector is not readily available. Fresh prunes are perishable, with the waiver needed to facilitate prompt marketing.

Such proposal reads as follows:

§ 924.110 Waiver of inspection and certification.

(a) *Application.* Any handler (including a grower-handler packing and handling prunes of such handler's own production), whose packing facilities are located in an area where either a Washington State Plant Industry Division Inspection Office or Oregon State Plant Industry Inspection Office or Federal-State Inspector is not readily available to perform the required inspection may, prior to shipment, apply to the Committee for a permit authorizing a waiver of inspection. Applications shall be made on forms furnished by the Committee and shall contain such information as the Committee may require including: Name and address of applicant, location of packing facility, distance of packing facility from the nearest inspection office, period (approximate beginning and ending dates) during which the applicant expects to ship prunes, estimated quantity of prunes applicant

expects to ship to fesh market during the period, manner in which the majority of applicant's fruit will be marketed (i.e., transported by applicant to market, sold at orchard to truckers, etc.), areas or markets to which the applicant expects to ship the majority of the prunes. The applicant shall also contain an agreement by applicant:

(1) Not to ship or handle any prunes unless such prunes meet the grade, size, maturity, container, and all other requirements of the marketing agreement and order in effect at time of handling;

(2) To report periodically to the Committee on reporting forms furnished by the Committee, the following information on each shipment: quantity, variety, grade, minimum size, container, date of shipment, destination, name and address of buyer or receiver, and such other information as the Committee may specify;

(3) To pay applicable assessments on each shipment;

(4) To have or cause to have each shipment of prunes inspected when such shipment is transported to a market or through a location enroute to market where an inspector is available; and

(5) To comply with such other safeguards as the Committee may prescribe.

(b) *Issuance of Permit.* Whenever the Committee finds and determines from the information contained in the application or from other proof satisfactory to the Committee that the applicant is entitled to a waiver from the inspection requirements of the marketing agreement and order at time of shipment, the Committee shall issue a permit authorizing the applicant to ship prunes in accordance with these administrative regulations and the terms and conditions of such permit.

Dated: July 19, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22820 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 309]

Proposed Amendment to Existing Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed Amendment to Existing Regulations—Extension of Comment Period.

SUMMARY: The Board of Directors of FDIC has voted to amend Part 309 of its regulations so as to allow for routine public disclosure of the Trust Department Annual Reports of Assets filed with the FDIC by State nonmember insured banks. All interested persons were invited to submit written comments on the proposed amendment until July 16, 1979. The comment period is being extended an additional thirty days.

DATE: Additional comments must be received by August 16, 1979.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Attorney, Legal Division (202-389-4453), or John Harvey, Review Section Chief (202-389-4620).

SUPPLEMENTARY INFORMATION: The FDIC currently obtains Trust Department Annual Reports of Assets from nonmember insured banks. The information compiled from these reports is used in a publication of statistical data on trust activities. The publication contains in some instances the data supplied by individual banks. The reports are themselves exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(8)), but may be disclosed at the FDIC's discretion. As it is the opinion of the Board of Directors of the FDIC that the public will be benefited by the release of this information and that State nonmember insured banks will not be harmed thereby, the Board of Directors proposes to make these reports available to the public on a routine basis. In order to do so, § 309.4(b) of FDIC's regulations must be amended to allow for such disclosure.

* * * * *

In consideration of the foregoing, the Board of Directors of the FDIC proposes to amend 12 CFR 309.4(b)(1) by adding at the end thereof:

(v) Annual Trust Department Report of Assets for commercial banks and mutual savings banks.[*]

Dated: July 17, 1979.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-22747 Filed 9-23-79; 8:45 am]

BILLING CODE 6714-01-M

[*] Trust Department report number 8020/33.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10748, File No. S7-789]

Confidential Treatment of Names and Addresses of Dealers of Registered Investment Company Securities

Correction

In FR Doc. 79-20738 appearing at page 39197 in the issue for Thursday, July 5, 1979, on page 39198, second column, sixth line of the first full paragraph, the word "of" should read "or".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 178]

Indirect Food Additives; Proposed Revocation of use of Hydrogenated 4, 4'-Isopropyli Denediphenolphosphite Ester Resins

Correction

In FR Doc. 79-18375 appearing on page 34513 in the issue of Friday, June 15, 1979, where references to "* * * 4, 4_m * * *" or "* * * 4, 4Δ * * *" appear change them to "* * * 4, 4' * * *".

BILLING CODE 1505-01-M

[21 CFR Part 184]

[Docket No. 78N-0198]

Dextrin; Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient

Correction

In FR Doc. 79-9170 appearing at page 18246 in the issue for Tuesday, March 27, 1979 and corrected at page 34515 in the issue of Friday, June 15, 1979, in the fourth item of the correction, the superscript "D" should have been a subscript "$_D$".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 55]

[Docket No. R-79-692]

Floodplain Management and the Protection of Wetlands

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

24 CFR Part 55—Floodplain Management and the Protection of Wetlands

This proposed rule prescribes policies and procedures to be used by the Department of Housing and Urban Development for implementing Executive Order 11988 on Floodplain Management and Executive Order 11990 for the Protection of Wetlands.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o) Section 324 of the Housing and Community Development Amendment of 1978.)

Issued at Washington, D.C., July 19, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22834 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 203]

[Docket No. R-79-691]

Mutual Mortgage Insurance and Insured Home Improvement Loans

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

Part 203—Mutual Mortgage Insurance and Insured Home Improvement Loans

The attached proposed rule would enable the Department to make insured financing available even though the purchaser has been financially assisted by a federal, state or local agency which has secured its assistance by a second lien subordinate the mortgage offered for FHA insurance.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. July 19, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22835 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 203]

[Docket No. R-79-687]

Mutual Mortgage Insurance and Insured Home Improvement Loans

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congrss prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 203—Mutual Mortgage Insurance and Insured Home Improvement Loans

This proposed rule would revise 24 CFR Part 203 to broaden the insured home improvement loan program under 203(k) to cover rehabilitation activities including refinancing or acquisition of property to be rehabilitated.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 18, 1979.

Jay Janis,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22764 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Parts 203, 220, 221, 222, 226 and 235]

[Docket No. R-79-693]

Mutual Mortgage Insurance and Insured Home Improvement Loans

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Parts 203, 220, 221, 222, 226 and 235—Mutual Mortgage Insurance and Insured Home Improvement Loans—Dollar Limitation Increase for Solar Energy Systems

This interim rule would amend 24 CFR Parts 203 and 235 to provide for an increase of up to twenty percent in the dollar limitations on insured mortgages and home improvement loans for one-to-four family residences, if such increase is made necessary by the installation of a solar energy system. In addition, the interim rule would amend 24 C.F.R. Part 226 to bring the maximum mortgage amounts for armed services housing in line with the dollar limitations set in Section 203(b) of the National Housing Act, as required by recent statutory amendment.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. July 19, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22833 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 390]

[Docket No. R-79-689]

Guaranty of Mortgage-Backed Securities

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 390—Guaranty of Mortgage-Backed Securities—Amendment to Permit Combination Mobile Home and Mobile Home Lot Loans to be Included in GNMA Mortgage-Backed Securities Program

This proposed rule would revise § 390.3(c)(3) of the regulations governing GNMA guaranty of mortgage-backed securities to permit "combination loans", which finance the purchase of mobile homes and developed lots in a single transaction, to be included in pools of mobile home loans under the existing GNMA program for mobile home loan securities. The change would substantially increase the availability of funds for "combination loans", which would in turn help increase the supply of moderately priced housing.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. July 18, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22836 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 510]

[Docket No. R-79-688]

Section 312 Rehabilitation Loan Program

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410, (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

Part 510—Section 312 Rehabilitation Loan Program

This interim rule would revise the requirements which apply when a tenant (not an owner-occupant) is displaced as a result of a Section 312 Rehabilitation Loan or is permitted to continue in occupancy of the property. The maximum rent that may be charged to a residential tenant who is permitted to continue in occupancy after the rehabilitation will, in some cases, be increased. Also, small residential rehabilitation projects that do not exceed $2,500 per dwelling unit and do not displace any tenants are being exempted from the rule.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 18, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22765 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 841]

[Docket No. R-79-690]

Public Housing Development Phase

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Interim Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 841—Public Housing Development Phase

This interim rule simplifies the requirements for the development of public housing in order to eliminate processing delays.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 18, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22837 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 2205]

[Docket No. R-79-694]

Federal Disaster Assistance Community Disaster Loans, Subpart F

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

24 CFR Part 2205—Federal Disaster Assistance Community Disaster Loans—Subpart F

This proposed rule revises and recodifies the material in the existing § 2205.56 as a new Subpart F at CFR 2205.90. This new Subpart F incorporates material previously published in FDAA Community Disaster Loan Handbook 3300.14, concerning loan eligibility, applications, administration, cancellations and repayment and clarifies existing policy and procedures.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535 (o), Section 324 of the Housing and Community Development Amendment of 1978).

Issued at Washington, D.C. July 19, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22832 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[EE-45-78]

Definition of a Private Foundation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice or proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to the definition of a private foundation. Changes to the applicable tax law were made by Public Law 94-81, enacted August 9, 1975. The amended regulations affect certain tax-exempt organizations seeking to qualify as other than private foundations which acquire unrelated trades or businesses after June 30, 1975. The amended regulations provide such organizations with guidance necessary to determine whether they qualify as other than private foundations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 24, 1979.

The amendments are proposed to be effective for taxable years ending after June 30, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-45-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Thomas L.Sumter of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, (202-566-6212, not a toll-free call).

SUPPLEMENTAL INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 507 and 509 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 3 of the Act of August 9, 1975 (Public law 94-81, 89 Stat. 418) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Definition of a Private Foundation

Prior to the amendment of section 509(a)(2)(B) of the Internal Revenue Code of 1954, an organization which normally received not more than one-third of its annual support from gross

investment income could, if it satisfied the other support requirements of section 509(a)(2), qualify as other than a private foundation. Gross investment income includes, generally, interest, rents, dividends and royalties. The amendment to section 509(a)(2)(B) provides that income from an unrelated trade or business acquired by the organization after June 30, 1975 (less any tax imposed by section 511 on such income) is to be treated like gross investment income in determining whether an organization meets the test under section 509(a)(2)(B).

Comments and Requests for a Pulbic Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Thomas L. Sumter of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.507–2 [Amended]

Paragraph 1. Paragraph (c)(1)(iv)(A) of § 1.507–2 is amended by deleting the words "gross investment income" and inserting in lieu thereof "item described in section 509(a)(2)(B)".

§ 1.509(a) [Deleted]

Paragraph 2. Section 1.509(a) is deleted.

Paragraph 3. Section 1.509(a)–3 is amended as follows:

1. Paragraph (a)(1) is amended by adding the heading "*General rule.*" and deleting the words "one-third gross investment income" in the second sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (a)(2) is amended by adding the heading *"One-third support test."*

3. Paragraph (a)(4) is amended by adding the heading "*Purposes.*" and deleting the words "one-third gross investment income" and inserting in lieu thereof "not-more-than-one-third support".

4. Paragraph (c)(1)(i) is amended by deleting the words "gross investment income" in the second sentence wherever it appears and inserting in lieu thereof "items described in section 509(a)(2)(B)".

5. Paragraph (c)(1)(iii)(*a*) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

6. Paragraph (c)(3) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by deleting the words "of gross investment income" in the fourth sentence and inserting in lieu thereof "from items described in section 509(a)(2)(B)".

7. Paragraph (d)(2) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by deleting the words "gross investment income" from the second sentence and inserting in lieu thereof "items described in section 509(a)(2)(B)".

8. Paragraph (d)(3)(iii) is amended by deleting the words "gross investment income" and inserting in lieu thereof "items described in section 509(a)(2)(B)".

9. Paragraph (e)(4)(i)(*f*) is amended by deleting the words "gross investment income" from the second, third, fourth and second sentences of examples 1, 2, 3, and 4 respectively and inserting in lieu thereof "not-more-than-one-third support".

10. Paragraph (a)(3) is revised to read as follows:

§ 1.509(a)–3 Broadly, publicly supported organizations.

(a) * * *

(3) *Not-more-than-one-third support test*—(i) *In general.* An organization will meet the not-more-than-one-third support test under section 509(a)(2)(B) if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives not more than one-third of its support in each taxable year from the sum of its gross investment income (as defined in section 509(e)) and the excess (if any) of the amount of its unrelated business taxable income (as defined in section 512) derived from trades or businesses which were acquired by the organization after June 30, 1975, over the amount of tax imposed on such income by section 511. For purposes of this section the amount of support received from items described in section 509(a)(2)(B) will be referred to as the numerator of the not-more-than-one-third support fraction, and the total amount of support (as defined in section 509(d)) will be referred to as the denominator of the not-more-than-one-third support fraction.

(ii) *Trade or business.* For purposes of section 509(a)(2)(B)(ii), a trade or business acquired after June 30, 1975, by an organization shall include the acquisition after such date of a trade or business from, or the liquidation of, an organization's subsidiary which is described in section 502 whether or not the subsidiary was held on June 30, 1975.

(iii) *Allocation of deductions between businesses acquired before, and businesses acquired after, June 30, 1975.* Deductions which are allowable under section 512 but are not directly connected to a particular trade or business, such as deductions referred to in paragraphs (10) and (12) of section 512(b), shall be allocated in the proportion that the unrelated trade or business taxable income derived from trades or businesses acquired after June 30, 1975, bears to the organization's total unrelated business taxabled income, both amounts being determined without regard to such deductions.

(iv) *Allocation of tax.* The tax imposed by section 511 shall be allocated in the same proportion as in paragraph (a)(3)(iii) of this section.

§ 1.509(a)–4 [Amended]

Paragraph 4. Paragraph (k)(2) of § 1.509(a)–4 is amended by deleting the words "gross investment income" in the third and sixth sentences of the example and inserting in lieu thereof "items described in section 509(a)(2)(B)."

§ 1.509(a)–5 [Amended]

Paragraph 5. Section 1.509(a)–5 is amended as follows:

1. Paragraph (a)(1) is amended by deleting the words "gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (b)(1) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

3. Paragraph (c) is amended by deleting the words "one-third gross investment income" and inserting in lieu

thereof "not-more-than-one-third support".

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-22773 Filed 7-23-79; 8:45 am]

BILLING CODE 4830-01-M

[26 CFR Part 53]

[EE-162-78]

Taxes on Excess Business Holdings; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations (44 FR 29680) dealing with matters reserved in the final regulations relating to taxes on the excess business holdings of private foundations.

DATES: The public hearing will be held on September 6, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by August 22, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-162-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4943 (c)(4), (6) and (d)(1) of the Internal Revenue Code of 1954.

Proposed regulations under section 4943 were first published in the **Federal Register** on January 3, 1973 (38 FR 32). Parts of these proposed regulations were adopted and published in the **Federal Register** for July 6, 1977 (42 FR 34499) as T.D. 7496. The full text of the final regulations as adopted by T.D. 7496 was published in the **Federal Register** for September 15, 1977 (42 FR 46285). Proposed regulations concerning matters reserved in T.D. 7496 appeared in the **Federal Register** for May 22, 1979 (44 FR 29680).

Concern has been expressed about the effect of the rules of the 1979 notice of proposed rulemaking on what is said to be normal expansion of business corporations in which a foundation has a "grandfathered" holding. Therefore, the subject matter of the hearing will be whether the final regulations should embody the rules of the 1973 notice of proposed rulemaking, the 1979 notice of proposed rulemaking or an intermediate position.

Persons who desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by August 22, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 79-22758 Filed 7-19-79; 1:04 pm]

BILLING CODE 4830-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

[29 CFR Part 1440]

FIFRA Arbitration Appointments; Proposed Rulemaking

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Insecticide, Fungicide & Rodenticide Act (hereinafter "FIFRA") provides for the appointment of arbitrators by the Federal Mediation and Conciliation Service (hereinafter "FMCS" or "the Service") if the parties to a dispute regarding compensation for the use or development of pesticide data cannot reach an agreement. FIFRA provides that the procedure and rules of the Service shall be applicable to such arbitration proceedings. (Pub. L. 95-396, Sept. 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii)).

This proposed rule would establish the procedure by which the Federal Mediation and Conciliation Service will appoint arbitrators to assist pesticide producers in the resolution of disputes over the value of technical data concerning the properties and effects of pesticides. For this purpose, the Service would utilize as its roster of arbitrators the roster of commercial arbitrators maintained by the American Arbitration Association ("AAA"), a non-profit private organization with long experience in commercial dispute resolution. The Service also proposes to incorporate the commercial arbitration rules of the AAA as the rules of procedure to be followed for arbitration of pesticide data compensation disputes.

DATES: Comments must be received on or before September 24, 1979.

ADDRESS: Send comments to Office of General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427.

FOR FURTHER INFORMATION CONTACT: Contact Nancy B. Broff, Assistant General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427, 202/653-5305.

SUPPLEMENTARY INFORMATION: This proposed rule would provide a mechanism for the binding resolution of certain disputes that may arise between persons who have attained or are seeking government authorization to produce and sell pesticides. Rules promulgated by the Environmental Protection Agency at 40 CFR 162 (see 40 FR 28242, July 3, 1975 and 44 FR 27932 May 11, 1979) describe the circumstances in which one pesticide producer either may or must base an application for licensing of a pesticide upon information previously submitted to EPA. This gives rise to an obligation on the part of the applicant to pay compensation to the submitter of the information. The role of the FMCS is limited to the appointment of arbitrators to resolve compensation disputes. The duties and obligations of EPA and the parties to the dispute are specified in the rules cited above and are explained in considerable detail in the preambles. Therefore, interested persons are urged to read and understand the EPA rulemaking and contact EPA concerning

those matters *not* identified as issues in the following proposed rule.

Congress has demonstrated its belief that the costs of generating information to evaluate pesticide risks be equitably apportioned among producers. In Section 3(c)(1)(D) of the 1972 FIFRA, Congress authorized the Administrator of EPA to consider data submitted by firm A (other than "trade secret" data) when evaluating in application from firm B so long as firm B offered to pay "reasonable compensation" to A. The 1972 Act provided that the Administrator would fix the amount of compensation if the applicant and submitter could not agree on an amount.

In 1973, EPA implemented the compensation provision of FIFRA with an Interim Policy Statement (38 FR 31862). This policy did not require direct communication of an offer from firm B to firm A. Rather, it permitted firm A to claim compensation from B on the basis of a general notice in the **Federal Register** that B's application had been granted. If the parties could not agee on an amount of compensation, they could offer evidence concerning the reasonableness of the amount sought or offered, in a hearing before an Administrative Law Judge, who would decide the sum. The situation became complicated in 1975, when EPA eliminated the practice of granting registrations based on "established use patterns." Applicants were now required to identify data submitted by prior registrants, on which they intended to rely and to advise the Agency that they had offered compensation to the original submitter. The response of many prior registrants to such offers was to advise EPA that the data on which applicants intended to rely was "trade secret," and, therefore, not subject to licensing. In other cases, because of poorly organized files at EPA, applicants experienced difficulty in identifying appropriate data to support registrations, or applicants were unwilling to extend offers to pay an unspecified amount of compensation.

Because of concern that FIFRA's complex provisions and EPA's difficulties in implementing them were affecting the viability of the pesticide industry, Congress directed EPA to conduct an evaluation and report its findings (H.R. 94–1105). A report, entitled *FIFRA: Impact on the Industry*, was subsequently submitted to Congress on March 7, 1977. Almost simultaneously EPA requested that Congress enact major changes to the pesticide statute.

On April 27, 1977, EPA Administrator Costle testified on behalf of an Administration proposal to amend FIFRA. He recommended the deletion of the "trade secret" exclusion from the Act's mandatory data licensing scheme. He also observed that EPA felt uncomfortable as the judge of data valuation disputes and asked Congress to provide guidance by specifying the factors to be considered when making valuations.

In response, the Senate and the House passed bills providing for final and binding arbitration of compensation disputes by arbitrators appointed by FMCS. Neither S. 1678 nor H.R. 8681 specified a formula or other guidance on the valuation of data for compensation purposes. The Committee of Conference substantially modified the provisions of each bill which pertained to data available for compensation, the duration of the compensable period and sanctions for failure to negotiate or arbitrate compensation disputes. Provisions were incorporated to permit any party to a compensation dispute of specified duration to "initiate binding arbitration by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by (the) Service."

Section 3(c)(1)(D)(ii) of FIFRA, as amended by the Federal Pesticide Act of 1978, provides in pertinent part:

"(ii) except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee expenses of the arbitrator."

The role of the FMCS is relatively minor within the context of the pesticide registration program as indicated by FIFRA, and the limited legislative history which is available. The duties of the Service under FIFRA are to:

(1) Designate a person to arbitrate a compensation dispute, when requested.

(2) Maintain a roster of persons qualified an available to conduct the arbitration proceedings.

(3) Adopt rules of procedure to be followed in the conduct of compensation arbitration.

The rule proposed today addresses these responsibilities. It does not attempt to deal with the issues and questions surrounding pesticide data compensation that are committed to the discretion and rulemaking of the EPA.

The Federal Mediation and Conciliation Service rarely arranges or conducts arbitration of commercial disputes. The Service is in the business of helping to resolve labor disputes between employers and representatives of their employees. Among various means to further that purpose, FMCS maintains a roster of names of private labor arbitrators who do not handle commercial disputes such as the compensation disputes arising under FIFRA.

However, the American Arbitration Association, a private non-profit organization, maintains a roster of qualified commercial arbitrators to decide such disputes. The FMCS proposes to utilize the services and facilities of the American Arbitration Association, and the skills of the experienced and impartial commercial arbitrators certified by the AAA, to ensure that a mechanism for data disputes is available to pesticide producers without excessive delay, unnecessary expense or inconvenience. The services of the AAA have proven successful in resolving a wide range of commercial disagreements over a long period of time.

The Service does not promulgate procedures or rules governing labor

arbitration proceedings because such provisions are set by the terms of collective bargaining agreements between employers and employee representatives, as well as by the "common law" of labor arbitration, as it has developed over the years. However, the American Arbitration Association has developed rules for commercial arbitration, and maintains 23 regional offices, to which joint requests for *voluntary* arbitration may be made. FIFRA provides that parties to a compensation dispute have 90 days within which to *agree* to a procedure for the resolution of their dispute, before binding arbitration can be compelled or forfeiture of privileges occurs. Similarly, the Act provides that registrants who agree to develop additional data jointly, but cannot agree on how to apportion costs, have a 60- or period to agree on a method for resolving their dispute, before a party can compel arbitration under these rules. Only after the respective 90-day or 60-day periods can either party *compel* arbitration by requesting the appointment of an arbitrator. FMCS will encourage the parties to agree to arbitration under the auspices of the AAA during the 60-day or 90-day periods.

Under the proposed rule FMCS would utilize as its roster of arbitrators for FIFRA data disputes the roster of commercial arbitrators maintained by the American Arbitration Association, and the rules of the AAA would be adopted as the rules of the Service applicable to such arbitration proceedings, except where they are inconsistent with FIFRA. The AAA fees for administrative services (arranging a conference room, transcript of proceedings, scheduling meetings, etc.) will be borne by the parties who will also pay the arbitrator's fee.[1]

Issues Presented: Appendix I below is the FMCS proposed regulation for fulfilling its duties under FIFRA. Appendix II is a copy of the rules of commercial arbitration ("The Rules") adopted by the AAA. Commenters are requested to review these rules to identify provisions which they believe to be inconsistent with FIFRA sections 3(c)(1)(D)(iii) and 3(c)(2)(B)(ii). In particular, commenters may wish to address the following issues:

(a) Whether the disqualification and vacancy determinations described in sections 18 and 19 of the Rules may properly be made by the AAA, rather than the FMCS.

(b) Whether the resolution of questions as to the meaning or application of the Rules under section 52 may be properly made by the AAA, rather than FMCS.

(c) Whether the Rules should provide for a certification by the arbitrator to EPA of a party's "bad faith" and, if so, what circumstances would constitute "failure to participate in an arbitration proceeding" or "failure to comply with an arbitration decision." The Administrator can impose sanctions if he finds that a party has failed to do either of these things. Who should refer such charges to the Administrator?

(d) To what extent should information concerning pesticide data arbitration awards be published? Lack of information about data compensation cases may compound the uncertainty about the consequences of using FIFRA's mandatory data licensing provision. EPA believes that both the parties and the arbitrator would find it helpful to have access to a body of case awards. Can the identities of the parties and the data in dispute, be disguised sufficiently to protect their commercial interests but reveal enough to facilitate negotiated settlements?

(e) The House Subcommittee on Agricultural Research indicated its intent that the arbitrators selected by FMCS would be persons experienced in the pesticide field and, in particular, in the research and development of pesticides (H.R. 95–663).

A small number of these specially qualified arbitrators may be available. However, the number of compensation disputes they could handle would be limited, and substantial time delays could result from limiting the roster to pesticide specialists. In order to provide more arbitrators with this specialized background, FMCS and AAA would have to seek out experienced persons in the pesticide industry and train them as arbitrators. The costs of this training would be quite high and would have to be borne by the parties who use these experts. In addition, experts would probably charge large fees for their services.

A less expensive alternative would be to identify a number of individuals from the general AAA commercial arbitrator roster and give them some training in the business of pesticides, research and development of pesticides and cost accounting. This training should be less expensive than the training required to make arbitrators out of pesticide experts, but again the cost would have to be borne by the parties as part of the administrative cost of arbitration.

Finally, arbitrators for these data compensation arbitrator roster on the assumption that these disputes are not significantly different from the variety of commercial disputes that these arbitrators ordinarily hear and decide. These AAA commercial arbitrators serve without fee unless the hearing goes beyond two days. This alternative presents the least cost to the parties.

Comments would be appreciated with respect to the questions and alternatives presented here, as well as on associated problems.

Because the arbitration procedures for FIFRA disputes must be available in the very near future, the Service has determined that it is necessary to publish the proposed rule without an advance notice of proposed rulemaking.

The Service has also determined that this proposed regulation is not "significant" within the meaning of Executive Order 12044 because it will not impose substantial compliance requirements or high costs on the parties affected.

This Proposed Rule is issued under the authority of the Federal Insecticide, Fungicide and Rodenticide Act, Public Law 95–396, Sept. 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii).

Appendix I

It is proposed to add to 29 CFR Chapter XII a new Part 1440 to read as follows:

PART 1440—ARBITRATION OF PESTICIDE DATA DISPUTES

§ 1440.0 Arbitration of Pesticide Data Disputes.

(a) Persons requesting the appointment of an arbitrator under Section 3(c)(1)(D)(ii) and Section 3(c)(2)(B)(iii) of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136, as amended), shall send such requests in writing to the Federal Mediation and Conciliation Service, FIFRA Arbitration Office, 2100 K Street, NW., Washington, D.C. 20427. Such requests must include the names, addresses and telephone numbers of the parties to the dispute, as well as the issue(s) in dispute.

(b) For the purpose of compliance with the Federal Insecticide, Fungicide and Rodenticide Act (hereinafter "the Act"), the roster of arbitrators maintained by the Federal Mediation and Conciliation Service shall be the roster of commercial arbitrators maintained by the American Arbitration Association. Under this Act, arbitrators

[1] If the FMCS were to undertake similar administrative services, FIFRA would require the parties to bear these costs of resolving their dispute, as would 31 USC 483(a). This would require the imposition of a substantially larger fee than for the use of AAA's services and facilities because FMCS has no existing facilities and personnel available for these purposes.

will be appointed from that roster. The fees of the American Arbitration Association shall apply, and the procedure and rules of the Federal Mediation and Conciliation Service, applicable to arbitration proceedings under the Act, shall be the commercial arbitration rules of the American Arbitration Association, which are hereby made a part of this regulation; except that where these rules are inconsistent with the Act or this regulation, then the Act and this regulation shall prevail.

(7 U.S.C. 136)

Appendix II

American Arbitration Association

Commercial Arbitration Rules

Section 1. AGREEMENT OF PARTIES—The parties shall be deemed to have made these Rules a part of their arbitration agreement whenever they have provided for arbitration by the American Arbitration Association or under its Rules. These Rules and any amendment thereof shall apply in the form obtaining at the time the arbitration is initiated.

Section 2. NAME OF TRIBUNAL—Any Tribunal constituted by the parties for the settlement of their dispute under these Rules shall be called the Commercial Arbitration Tribunal.

Section 3. ADMINISTRATOR—When parties agree to arbitrate under these Rules, or when they provide for arbitration by the American Arbitration Association and an arbitration is initiated thereunder, they thereby constitute AAA the administrator of the arbitration. The authority and obligations of the administrator are prescribed in the agreement of the parties and in these Rules.

Section 4. DELEGATION OF DUTIES—The duties of the AAA under these Rules may be carried out through Tribunal Administrators, or such other officers or committees as the AAA may direct.

Section 5. NATIONAL PANEL OF ARBITRATORS—The AAA shall establish and maintain a National Panel of Arbitrators and shall appoint Arbitrators therefrom as hereinafter provided.

Section 6. OFFICE OF TRIBUNAL—The general office of a Tribunal is the headquarters of the AAA, which may, however, assign the administration of an arbitration to any of its Regional Offices.

Section 7. INITIATION UNDER AN ARBITRATION PROVISION IN A CONTRACT—Arbitration under an arbitration provision in a contract may be initiated in the following manner:

(a) The initiating party shall give notice to the other party of his intention to arbitrate (Demand), which notice shall contain a statement setting forth the nature of the dispute, the amount involved, if any, the remedy sought, and

(b) By filing at any Regional Office of the AAA two (2) copies of said notice, together with two (2) copies of the arbitration provisions of the contract, together with the appropriate administrative fee as provided in the Administrative Fee Schedule.

The AAA shall give notice of such filing to the other party. If he so desires, the party upon whom the demand for arbitration is made may file an answering statement in duplicate with the AAA within seven days after notice from the AAA, in which event he shall simultaneously send a copy of his answer to the other party. If a monetary claim is made in the answer the appropriate fee provided in the Fee Schedule shall be forwarded to the AAA with the answer. If no answer is filed within the stated time, it will be assumed that the claim is denied. Failure to file an answer shall not operate to delay the arbitration.

Section 8. CHANGE OF CLAIM—After filing of the claim, if either party desires to make any new or different claim, such claim shall be made in writing and filed with the AAA, and a copy thereof shall be mailed to the other party, who shall have a period of seven days from the date of such mailing within which to file an answer with the AAA. However, after the Arbitrator is appointed no new or different claim may be submitted to him except with his consent.

Section 9. INITIATION UNDER A SUBMISSION—Parties to any existing dispute may commence an arbitration under these Rules by filing at any Regional Office two (2) copies of a written agreement to arbitrate under these Rules (Submission), signed by the parties. It shall contain a statement of the matter in dispute, the amount of money involved, if any, and the remedy sought, together with the appropriate administrative fee as provided in the Fee Schedule.

Section 10. FIXING OF LOCALE—The parties may mutually agree on the locale where the arbitration is to be held. If the locale is not designated within seven days from the date of filing the Demand or Submission the AAA shall have power to determine the locale. Its decision shall be final and binding. If any party requests that the hearing be held in a specific locale and the other party files no objection thereto within seven days after notice of the request, the locale shall be the one requested.

Section 11. QUALIFICATIONS OF ARBITRATOR—Any Arbitrator appointed pursuant to Section 12 or Section 14 shall be neutral, subject to disqualification for the reasons specified in Section 18. If the agreement of the parties names an Arbitrator or specifies any other method of appointing an Arbitrator, or if the parties specifically agree in writing, such Arbitrator shall not be subject to disqualification for said reasons.

Section 12. APPOINTMENT FROM PANEL—If the parties have not appointed an Arbitrator and have not provided any other method of appointment, the Arbitrator shall be appointed in the following manner: Immediately after the filing of the Demand or Submission, the AAA shall submit simultaneously to each party to the dispute an identical list of names of persons chosen from the Panel. Each party to the dispute shall have seven days from the mailing date in which to cross off any names to which he objects, number the remaining names indicating the order of his preference, and return the list to the AAA. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an Arbitrator to serve. If the parties fail to agree upon any of the persons named, or if acceptable Arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the AAA shall have the power to make the appointment from other members of the Panel without the submission of any additional lists.

Section 13. DIRECT APPOINTMENT BY PARTIES—If the agreement of the parties names an Arbitrator or specifies a method of appointing an Arbitrator, that designation or method shall be followed. The notice of appointment, with name and address of such Arbitrator, shall be filed with the AAA by the appointing party. Upon the request of any such appointing party, the AAA shall submit a list of members from the Panel from which the party may, if he so desires, make the appointment.

If the agreement specifies a period of time within which an Arbitrator shall be appointed, and any party fails to make such appointment within that period, the AAA shall make the appointment.

If no period of time is specified in the agreement, the AAA shall notify the parties to make the appointment and if within seven days thereafter such Arbitrator has not been so appointed, the AAA shall make the appointment.

Section 14. APPOINTMENT OF NEUTRAL ARBITRATOR BY PARTY-APPOINTED ARBITRATORS—If the parties have appointed their Arbitrators or if either or both of them have been appointed as provided in Section 13, and have authorized such Arbitrators to appoint a neutral Arbitrator within a specified time and no appointment is made within such time or any agreed extension thereof, the AAA shall appoint a neutral Arbitrator who shall act as Chairman.

If no period of time is specified for appointment of the neutral Arbitrator and the parties do not make the appointment within seven days from the date of the appointment of the last party-appointed Arbitrator, the AAA shall appoint such neutral Arbitrator, who shall act as Chairman.

If the parties have agreed that their Arbitrators shall appoint the neutral Arbitrator from the Panel, the AAA shall furnish to the party-appointed Arbitrators, in the manner prescribed in Section 12, a list selected from the Panel, and the appointment of the neutral Arbitrator shall be made as prescribed in such Section.

Section 15. NATIONALITY OF ARBITRATOR IN INTERNATIONAL ARBITRATION—If one of the parties is a national or resident of a country other than the United States, the sole Arbitrator or the neutral Arbitrator shall, upon the request of either party, be appointed from among the

nationals of a country other than that of any of the parties.

Section 16. NUMBER OF ARBITRATORS—If the arbitration agreement does not specify the number of Arbitrators, the dispute shall be heard and determined by one Arbitrator, unless the AAA, in its discretion, directs that a greater number of Arbitrators be appointed.

Section 17. NOTICE TO ARBITRATOR OF HIS APPOINTMENT—Notice of the appointment of the neutral Arbitrator, whether appointed by the parties or by the AAA, shall be mailed to the Arbitrator by the AAA, together with a copy of these Rules, and the signed acceptance of the Arbitrator shall be filed prior to the opening of the first hearing.

Section 18. DISCLOSURE AND CHALLENGE PROCEDURE—A person appointed as neutral Arbitrator shall disclose to the AAA any circumstances likely to affect his impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their counsel. Upon receipt of such information from such Arbitrator or other source, the AAA shall communicate such information to the parties, and, if it deems it appropriate to do so, to the Arbitrator and others. Thereafter, the AAA shall determine whether the Arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

Section 19. VACANCIES—If any Arbitrator should resign, die, withdraw, refuse, be disqualified or be unable to perform the duties of his office, the AAA may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these Rules and the matter shall be reheard unless the parties shall agree otherwise.

Section 20. TIME AND PLACE—The Arbitrator shall fix the time and place for each hearing. The AAA shall mail to each party notice thereof at least five days in advance, unless the parties by mutual agreement waive such notice or modify the terms thereof.

Section 21. REPRESENTATION BY COUNSEL—Any party may be represented by counsel. A party intending to be so represented shall notify the other party and the AAA of the name and address of counsel at least three days prior to the date set for the hearing at which counsel is first to appear. When an arbitration is initiated by counsel, or where an attorney replies for the other party, such notice is deemed to have been given.

Section 22. STENOGRAPHIC RECORD—The AAA shall make the necessary arrangements for the taking of a stenographic record whenever such record is requested by a party. The requesting party or parties shall pay the cost of such record as provided in Section 49.

Section 23. INTERPRETER—The AAA shall make the necessary arrangements for the services of an interpreter upon the request of one or more of the parties, who shall assume the cost of such service.

Section 24. ATTENDANCE AT HEARINGS—The Arbitrator shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings. The Arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the Arbitrator to determine the propriety of the attendance of any other person.

Section 25. ADJOURNMENTS—The Arbitrator may take adjournments upon the request of a party or upon his own initiative and shall take such adjournment when all of the parties agree thereto.

Section 26. OATHS—Before proceeding with the first hearing or with the examination of the file, each Arbitrator may take an oath of office, and if required by law, shall do so. The Arbitrator may, in his discretion, require witnesses to testify under oath administered by any duly qualified person or, if required by law or demanded by either party, shall do so.

Section 27. MAJORITY DECISION—Whenever there is more than one Arbitrator, all decisions of the Arbitrators must be by at least a majority. The award must also be made by at least a majority unless the concurrence of all is expressly required by the arbitration agreement or by law.

Section 28. ORDER OF PROCEEDINGS—A hearing shall be opened by the filing of the oath of the Arbitrator, where required, and by the recording of the place, time and date of the hearing, the presence of the Arbitrator and parties, and counsel, if any, and by the receipt by the Arbitrator of the statement of the claim and answer, if any.

The Arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved.

The complaining party shall then present his claim and proofs and his witnesses, who shall submit to questions or other examination. The defending party shall then present his defense and proofs and his witnesses, who shall submit to questions or other examination. The Arbitrator may in his discretion vary this procedure but he shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

Exhibits, when offered by either party, may be received in evidence by the Arbitrator.

The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

Section 29. ARBITRATION IN THE ABSENCE OF A PARTY—Unless the law provides to the contrary, the arbitration may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The Arbitrator shall require the party who is present to submit such evidence as he may require for the making of an award.

Section 30. EVIDENCE—The parties may offer such evidence as they desire and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the dispute. When the Arbitrator is authorized by law to subpoena witnesses or documents, he may do so upon his own initiative or upon the request of any party. The Arbitrator shall be the judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all of the Arbitrators and of all the parties, except where any of the parties is absent in default or has waived his right to be present.

Section 31. EVIDENCE BY AFFIDAVIT AND FILING OF DOCUMENTS—The Arbitrator shall receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as he deems it entitled to after consideration of any objections made to its admission.

All documents not filed with the Arbitrator at the hearing, but arranged for at the hearing or subsequently by agreement of the parties, shall be filed with the AAA for transmission to the Arbitrator. All parties shall be afforded opportunity to examine such documents.

Section 32. INSPECTION OR INVESTIGATION—Whenever the Arbitrator deems it necessary to make an inspection or investigation in connection with the arbitration, he shall direct the AAA to advise the parties of his intention. The Arbitrator shall set the time and the AAA shall notify the parties thereof. Any party who so desires may be present at such inspection or investigation. In the event that one or both parties are not present at the inspection or investigation, the Arbitrator shall make a verbal or written report to the parties and afford them an opportunity to comment.

Section 33. CONSERVATION OF PROPERTY—The Arbitrator may issue such orders as may be deemed necessary to safeguard the property which is the subject matter of the arbitration without prejudice to the rights of the parties or to the final determination of the dispute.

Section 34. CLOSING OF HEARINGS—The Arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the Arbitrator shall declare the hearings closed and a minute thereof shall be recorded. If briefs are to be filed, the hearings shall be declared closed as of the final date set by the Arbitrator for the receipt of briefs. If documents are to be filed as provided for in Section 31 and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearing. The time limit within which the Arbitrator is required to make his award shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearings.

Section 35. REOPENING OF HEARINGS—The hearings may be reopened by the Arbitrator on his own motion, or upon application of a party at any time before the award is made. If the reopening of the hearings would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless the parties agree upon the extension of such time limit. When no specific date is fixed in the contract, the

Arbitrator may reopen the hearings, and the Arbitrator shall have thirty days from the closing of the reopened hearings within which to make an award.

Section 36. WAIVER OF ORAL HEARING—The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the AAA shall specify a fair and equitable procedure.

Section 37. WAIVER OF RULES—Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and who fails to state his objection thereto in writing, shall be deemed to have waived his right to object.

Section 38. EXTENSIONS OF TIME—The parties may modify any period of time by mutual agreement. The AAA for good cause may extend any period of time established by these Rules, except the time for making the award. The AAA shall notify the parties of any such extension of time and its reason therefor.

Section 39. COMMUNICATION WITH ARBITRATOR AND SERVING OF NOTICES—

(a) There shall be no communication between the parties and a neutral Arbitrator other than at oral hearings. Any other oral or written communications from the parties to the Arbitrator shall be directed to the AAA for transmittal to the Arbitrator.

(b) Each party to an agreement which provides for arbitration under these Rules shall be deemed to have consented that any papers, notices or process necessary or proper for the initiation or continuation of an arbitration under these Rules and for any court action in connection therewith or for the entry of judgment on any award made thereunder may be served upon such party by mail addressed to such party or his attorney at his last known address or by personal service, within or without the state wherein the arbitration is to be held (whether such party be within or without the United States of America), provided that reasonable opportunity to be heard with regard thereto has been granted such party.

Section 40. TIME OF AWARD—The award shall be made promptly by the Arbitrator and, unless otherwise agreed by the parties, or specified by law, no later than thirty days from the date of closing the hearings, or if oral hearings have been waived, from the date of transmitting the final statements and proofs to the Arbitrator.

Section 41. FORM OF AWARD—The award shall be in writing and shall be signed either by the sole Arbitrator or by at least a majority if there be more than one. It shall be executed in the manner required by law.

Section 42. SCOPE OF AWARD—The Arbitrator may grant any remedy or relief which he deems just and equitable and within the scope of the agreement of the parties, including, but not limited to, specific performance of a contract. The Arbitrator, in his award, shall assess arbitration fees and expenses in favor of any party and, in the event any administrative fees or expenses are due the AAA, in favor of the AAA.

Section 43. AWARD UPON SETTLEMENT—If the parties settle their dispute during the course of the arbitration, the Arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

Section 44. DELIVERY OF AWARD TO PARTIES—Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at his last known address or to his attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

Section 45. RELEASE OF DOCUMENTS FOR JUDICIAL PROCEEDINGS—The AAA shall, upon the written request of a party, furnish to such party, at his expense, certified facsimiles of any papers in the AAA's possession that may be required in judicial proceedings relating to the arbitration.

Section 46. APPLICATIONS TO COURT—

(a) No judicial proceedings by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) The AAA is not a necessary party in judicial proceedings relating to the arbitration.

(c) Parties to these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any Federal or State Court having jurisdiction thereof.

Section 47. ADMINISTRATIVE FEES—As a nonprofit organization, the AAA shall prescribe an administrative fee schedule and a refund schedule to compensate it for the cost of providing administrative services. The schedule in effect at the time of filing or the time of refund shall be applicable.

The administrative fees shall be advanced by the initiating party or parties, subject to final apportionment by the Arbitrator in his award.

When a matter is withdrawn or settled, the refund shall be made in accordance with the refund schedule.

The AAA, in the event of extreme hardship on the part of any party, may defer or reduce the administrative fee.

Section 48. FEE WHEN ORAL HEARINGS ARE WAIVED—Where all oral hearings are waived under Section 36 the Administrative Fee Schedule shall apply.

Section. 49. EXPENSES—The expenses of witnesses for either side shall be paid by the party producing such witnesses.

The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies unless they shall otherwise agree and shall be paid for by the responsible parties directly to the reporting agency.

All other expenses of the arbitration, including required traveling and other expenses of the Arbitrator and of AAA representatives, and the expenses of any witness or the cost of any proofs produced at the direct request of the Arbitrator, shall be borne equally by the parties, unless they agree otherwise, or unless the Arbitrator in his award assesses such expenses or any part thereof against any specified party or parties.

Section 50. ARBITRATOR'S FEE—Members of the National Panel of Arbitrators serve without fee in commercial arbitrations. In prolonged or in special cases the parties may agree to the payment of a fee.

Any arrangements for the compensation of a neutral Arbitrator shall be made through the AAA and not directly by him with the parties.

Section 51. DEPOSITS—The AAA may require the parties to deposit in advance such sums of money as it deems necessary to defray the expense of the arbitration, including the Arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance.

Section 52. INTERPRETATION AND APPICATION OF RULES—the Arbitrator shall interpret and apply these Rules insofar as they relate to his powers and duties. When there is more than one Arbitrator and a difference arises among them concerning the meaning or application of any such Rules, it shall be decided by a majority vote. If that is unobtainable, either an Arbitrator or a party may refer the question to the AAA for final decision. All other Rules shall be interpreted and applied by the AAA.

Administrative Fee Schedule

The administrative fee of the AAA is based upon the amount of each claim and counterclaim as disclosed when the claim and counterclaim are filed, and is due and payable at the time of filing.

Amount of claim	fee
Up to $10,000	3% (minimum $150.00)
$10,000 to $25,000	$300, plus 2% of excess over $10,000
$25,000 to $100,000	$600, plus 1% of excess over $25,000
$100,000 to $200,000	$1350, plus ½% of excess over $100,000
$200,000 to $5,000,000	$1850, plus ¼% of excess over $200,000

Where the claim or counterclaim exceeds $5 million, an appropriate fee will be determined by the AAA.

When no amount can be stated at the time of filing, the administrative fee is $300, subject to adjustment in accordance with the above schedule as soon as an amount can be disclosed.

If there are more than two parties represented in the arbitration, an additional 10% of the initiating fee will be due for each additional represented party.

Other Service Charges—$50.00 payable by a party causing an adjournment of any scheduled hearing;

$100 payable by a party causing a second or additional adjournment of any scheduled hearing.

$25.00 payable by each party for each hearing after the first hearing which is either clerked by the AAA or held in a hearing room provided by the AAA.

Refund Schedule—If the AAA is notified that a case has been settled or withdrawn before a list of Arbitrators has been sent out, all the fee in excess of $150.00 will be refunded.

If the AAA is notified that a case has been settled or withdrawn thereafter but before the due date for the return of the first list, two-thirds of the fee in excess of $150.00 will be refunded.

If the AAA is notified that a case is settled or withdrawn thereafter but at least 48 hours before the date and time set for the first hearing, one-half of the fee in excess of $100.00 will be refunded.

Issued in Washington, D.C. on July 17, 1979.

Sorine Preli,

Acting Director of Administration Federal Mediation and Conciliation Service.

[FR Doc. 79-22681 Filed 7-23-79; 8:45 am]

BILLING CODE 6732-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1280-1]

Approval and Promulgation of Implementation Plans; Implementation Plan Revisions for Certain Nonattainment Areas Tennessee

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of Availability.

SUMMARY: EPA announces today that a portion of the Tennessee implementation plan revisions due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection. The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the **Federal Register** later; the period for the submittal of written comments will extend for 30 days after the publication of the Notice of Proposed Rulemaking.

ADDRESSES: The Tennessee submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

In addition, the Tennessee revisions may be examined at the office of the Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Archie Lee of EPA's Region IV Air Programs Branch. Mr. Lee may be reached by telephone at 404/881-2864 (FTS-257-2864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1978, the Administrator designated a number of areas in Tennessee as nonattainment (43 FR 8962). Tennessee has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that plan revisions have been formally submitted for the following areas and are available for public inspection:

Ozone, Statewide.
Carbon Monoxide, Davidson County.
Particulates, Columbia, Nashville.

Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act [42 U.S.C. 7410 and 7502])

Dated: July 17, 1979.

John C. White,

Regional Administrator, Region IV.

[FR Doc. 79-22826 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1279-3]

State of West Virginia; Proposed Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On June 18, 1979, proposed revisions to the West Virginia State Implementation Plan (SIP) for the attainment of National Ambient Air Quality Standards for total suspended particulates, sulfur dioxide, and ozone were submitted to the Environmental Protection Agency (EPA) by the Governor. The intended effect of the revisions is to meet the requirements of Part D of Title I of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." This notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and suggests corrective actions.

In the State of West Virginia, regulations must first be reviewed and approved by the West Virginia Legislative Rulemaking Review Committee before approval by the Governor and submittal to EPA. The plan has been recently submitted to that Body for review and action. Final action on West Virginia's plan cannot be taken until the Legislative Rulemaking Review Committee approves these regulations, which must subsequently be approved by the Governor and submitted to EPA.

EPA invites public comments on these revisions, the identified issues, the suggested corrections, and on the question of whether the revision should be approved or disapproved.

DATE: Submit comments on or before September 24, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Raymond D. Chalmers.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, DC 20460.

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311, Attn: Mr. Carl Beard.

All comments on the proposed revisions submitted on or before September 24, 1979, will be considered and should be directed to:

Mr. Howard R. Heim, Jr., Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: AH300WV.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: 215/597-8309.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August, 1977, Public Law No. 95-95, required States to revise their SIPs for all areas where National Ambient Air Quality Standards (NAAQS) had not been attained. The Administrator promulgated lists of these areas on March 3, 1978 (43 FR 8962 (1978)), and on September 12, 1978 (43 FR 40502 (1978)). Several areas in West Virginia were designated as nonattainment for total suspended particulates, sulfur dioxide, and ozone.

As a consequence, the State of West Virginia was required to develop and adopt SIP revisions to bring these areas into compliance with standards.

On June 18, 1979 the Governor of West Virginia submitted proposed revisions to the State Implementation Plan for EPA's review even before final approval by West Virginia's Legislative Rulemaking Committee. He also has indicated his desire that we publish those revisions in the **Federal Register**. As a consequence, the comments presented herein reflect EPA's preliminary evaluation of the proposed SIP for which public comments are now also being solicited.

The requirements and criteria which these revisions must satisfy are described or referenced in a **Federal Register** notice published on April 4, 1979 (44 FR 20372 (1979)). This notice, to which interested persons may refer, is entitled, "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas". The "General Preamble" is incorporated herein by reference. A summary of the criteria for approving SIP's for nonattainment areas follows.

Criteria for Approval

The following list summarizes the basic requirements for nonattainment area plans.

(1) Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.

(2) A provision for expeditious attainment of the standards.

(3) A demonstration of attainment.

(4) An emission inventory.

(5) A commitment to Reasonable Further Progress towards attainment.

(6) An identification of emissions growth.

(7) A provision for preconstruction review.

(8) Reasonable Available Control Technology (RACT) requirements.

(9) Inspection and Maintenance, if necessary, as expeditiously as practicable.

(10) Transportation Control Measures, if necessary, as expeditiously as practicable.

(11) Enforceability of the regulations.

(12) A commitment to expend the resources necessary to carry out the plan.

(13) Evidence of public, local government, and State legislative involvement in the development of the plan.

(14) An identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan.

In the following sections of this Notice there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding these terms are defined below:

Design Value.—The level of existing air quality used as a basic for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback.—A proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

Ozone

Description of Submittal.—The EPA has designated the Kanawha Valley Interstate Air Quality Control Region (AQCR) a nonattainment area for ozone. This area encompasses Putnam County, Kanawha County, and the Valley Magisterial District of Fayette County.

The EPA requires States to adopt regulations requiring Reasonably Available Control Technology (RACT) for major sources of Volatile Organic Compounds (VOC) in eleven source categories. Major sources are defined as those having the potential to emit 100 tons or more of hydrocarbons per year.

West Virginia has certified that major sources exist in only three of these source categories. The State is proposing to regulate these source categories. They are: storage of petroleum liquids in fixed-roof tanks, bulk gasoline terminals, and petroleum refineries.

The EPA has determined that the Kanawha Valley Interstate AQCR is a rural ozone nonattainment area and is not requiring the State of West Virginia to adopt Automobile Inspection and Maintenance and Transportation Control Measures.

Adoption After Reasonable Notice and Hearing. West Virginia's Air Pollution Control Commission adopted the regulations in the ozone SIP after a January 16, 1979 public hearing which met the requirements of 40 CFR 51.4. The regulations in the SIP adopted by the West Virginia Air Pollution Control Commission, however, have not yet been adopted by West Virginia's Legislative Rulemaking Review Committee as required in Chapter 29(a) Article 3, Section 11 of the Code of West Virginia.

Attainment Date. West Virginia predicts attaining the ozone NAAQS by the end of 1982. An extension until 1987 has not been requested.

Control Strategy and Demonstration of Attainment. West Virginia is not required to submit an ozone control strategy demonstration for the Kanawha Valley Interstate AQCR; such demonstrations are not required for rural nonattainment areas. West Virginia nevertheless chose to submit such a demonstration. The submittal was developed on the basis of the .12 ppm ozone standard. A commitment to attain the ozone standard by the end of 1982 was provided.

The design value used by West Virginia in the demonstration was 265 ug/m^3(.13ppm). EPA has determined that 275 ug/m^3(.14ppm) is the correct design value based on EPA's "Guideline for the Interpretation of Ozone Air Quality Standards."

Substitution of 275 ug/m^3(.14ppm) into the Modified Rollback equation results in an increase in the ozone emission reduction required to attain the NAAQS. The needed reduction increases from the 13% required in the plan to 17%. However, attainment of the standard would still be achieved by 1982.

West Virginia states that a major portion of the reduction needed to attain the standard will be achieved through enforcement of the State's solid waste disposal regulation and through implementation of the Federal Motor Vehicle Control Program.

Emission Inventory. There is no inventory of major point sources. The inventory only includes a categorical listing of emissions. The inventory should be expanded to include source-specific information for major point sources. The accuracy of the categorical inventory cannot be evaluated since the actual calculations and methods of estimation used in developing the inventory were not submitted. The State has been requested to forward this information.

West Virginia should also explain why it has claimed emission reductions in source categories for which there are no regulations; for example, a 56% reduction for solvent metal cleaning emissions, and a 99% reduction in emissions from cutback asphalt paving.

Reasonable Further Progress. West Virginia was not required to submit a Reasonable Further Progress (RFP) presentation for the Kanawha Valley Interstate AQCR; such presentations are not required for rural ozone nonattainment areas. Nevertheless, West Virginia chose to submit an RFP presentation.

RACT as Expeditiously as Practicable. The Control Techniques Guidelines documents provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA

believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. West Virginia's Regulations XXI, XXIII, and XXIV apply to storage of petroleum liquids in fixed-roof tanks, bulk gasoline terminals, and petroleum refinery sources, respectively. Several sections of these regulations depart from EPA's definitions of RACT and should be amended as follows:

(a) In Section 4.01(b) of Regulation XXI, a 90% collection efficiency requirement should be added.

(b) In Section 3.21 of Regulation XXIII, the words "during the transfer of gasoline" should be deleted. The vapor control system should prevent VOC emissions at all times.

(c) Section 4.04 of Regulations XXI, XXIII, and XXIV, which provides for exemptions to RACT, should be revised or deleted because RACT for the source categories covered by these regulations is technologically feasible. This section should be revised because alternative control strategies should be proposed only where equivalent emission reductions are achieved or where the more stringent controls are not technologically or economically feasible. The intent of Section 4.04 is also somewhat unclear. Apparently a "bubble" concept is being proposed. West Virginia should clarify its intent and explain how the bubble concept would be applicable to these source categories.

Enforceability: Regulations XXI, XXIII, and XXIV should be amended to enhance their enforceability.

(a) The proposed effective date for Regulations XXI, XXIII and XXIV is July 9, 1979. EPA recommends that regulations be made future effective. Having immediately effective regulations could subject sources which are not in compliance with the SIP to the noncompliance penalties of Section 120 of the Clean Air Act. Categorical compliance schedules should be included in the regulations to allow for future compliance dates.

(b) Test procedures and methods for determining compliance with the provisions of Regulations XXI, XXIII and XXIV should be included in the SIP.

(c) Section 4.02(a)(2) of Regulation XXIII should include a definition of "fuel gas system".

(d) In Section 3.05 of Regulation XXIII, the wording of the definition of "Condensate" should be revised to read "hydrocarbon liquid separated from natural gas which condensed."

(e.) The definition of "Volatile Organic Compound" in Regulation XXIII states that methane is not considered a VOC. This wording should be included in Regulations XXI and XXIV.

(f.) In addition to the specific items listed above, EPA's preliminary review has revealed numerous instances where the regulations could be made more easily enforceable by correcting vague or unclear wording. EPA has notified the State of those instances.

State Commitments to Comply With Schedules. EPA has published and will be issuing additional Control Technique Guideline documents (CTG's) for the control of stationary source categories of volatile organic compounds. West Virginia has provided a commitment to adopt and submit regulations for all appropriate stationary source categories of VOC after EPA issues such guidance documents. This commitment is acceptable.

Sulfur Dioxide

Description of Submittal.—In the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR), the New Manchester-Grant Magisterial District in Hancock County and the Wellsburg Magisterial District in Brooke County are designated as primary nonattainment. On April 6, 1979, the State requested that the Wellsburg Magisterial District in Brooke County be redesignated a primary and secondary attainment area. This request was based on the latest eight quarters of air quality data. Apparently assuming this request will be approved, West Virginia's submittal of June only addressed the primary nonattainment area of New Manchester in Hancock County.

The SIP indicates that there is only one major emitting facility not in compliance with applicable sulfur dioxide regulations which impacts on the New Manchester ambient air quality monitor. That one facility is Ohio Edison Company's W. H. Sammis Generating Station which is located directly across the Ohio River near Stratton, Ohio. All other facilities which impact on the New Manchester monitor are purportedly in compliance with applicable sulfur dioxide regulations. West Virginia has submitted no revised regulations for sulfur dioxide.

Adoption after Reasonable Notice and Hearing. West Virginia held a public hearing on the sulfur dioxide SIP on December 18, 1978. Notice was given and a hearing was held in accordance with the requirements of 40 CFR Section 51.4.

Control Strategy and Demonstration of Attainment.—According to an air quality dispersion analysis performed by the EPA, a 20 ug/m^3 annual average reduction can be expected when the Sammis Plant comes into compliance with the Ohio SIP. When this reduction is applied to the two most recent annual air quality periods (4/77–3/78 and 4/78–3/79) the resulting arithmetic means are 70 ug/m^3 and 45 ug/m^3, respectively. Since there are no recorded violations of any short term standards (3-hours and 24-hours), compliance by the Sammis Plant is expected to result in compliance with all of the National Ambient Air Quality Standards for sulfur dioxide. This determination was also confirmed by short term air quality dispersion analyses performed by EPA.

The Sammis Plant is presently on a schedule for compliance and is required to be in final compliance by October 19, 1979. If the 20 ug/m^3 annual average reduction is realized, no further reduction in emissions by other facilities would be required to attain ambient standards.

Margin for Growth. The State has not addressed expected growth in the area of nonattainment. While it is EPA's understanding from discussion with State officials that West Virginia intends to accommodate major point source growth on a case-by-case basis, the plan lacks a regulation to offset new emissions in accordance with the requirements of Section 173 of the Act. Further, the State should explain the manner in which area source growth would be accommodated.

Total Suspended Particulates

Description of Submittal.—EPA has designated four areas in West Virginia as nonattainment for total suspended particulates (TSP). West Virginia has submitted attainment plans for each of these areas:

1. The Steubenville-Weirton-Wheeling Interstate Aqcr;
2. The Parkersburg-Tygart Magisterial District in Wood County;
3. Kanawha County, and Valley Magisterial District in Fayette County;
4. In Marion County, all portions of Union and Winfield Magisterial Districts West of Interstate Highway I–79.

The plan for each area contained an emission inventory, a demonstration of attainment, and a commitment by the State to maintain Reasonable Further Progress (RFP) toward attainment.

Adoption After Reasonable Notice and Hearings.—On December 18, 1978,

West Virginia held a public hearing on the general provisions of the TSP attainment plans. On December 7, 1978, the State held hearings on the TSP regulations necessary to implement the plans. The State followed appropriate procedures in providing adequate notice of the hearings. The hearings were conducted in accordance with the requirements of 40 CFR Section 51.4.

However, the regulations for control of TSP emissions adopted by the West Virginia Air Pollution Control Commission have not yet been adopted by the West Virginia Legislative Rulemaking Review Committee.

Control Strategy and Demonstration of Attainment.—A. *Steubenville-Weirton-Wheeling Interstate AQCR.* The Steubenville-Weirton-Wheeling AQCR has been designated as a primary and secondary nonattainment area for TSP. The State has submitted a demonstration showing attainment of the primary TSP standard by December 31, 1982 using the rollback technique. The State has not committed to attainment of the secondary standard by a specific date. However, it is EPA's understanding that West Virginia will be requesting an eighteen month extension to develop and submit the secondary TSP attainment plan which will include a specific attainment date.

In this AQCR, a major portion of those emission reductions necessary to attain the TSP secondary standard will be identified through a TSP study which is currently ongoing. This study is being funded by EPA and is being carried out in conjunction with Ohio and West Virginia. The schedules and dates for adoption of those regulations necessary to attain the secondary TSP standard should be included when the secondary TSP plan is submitted to EPA.

B. *The Parkersburg-Tygart Magisterial District.*—The Parkersburg-Tygart Magisterial District has been designated as a secondary nonattainment area for TSP. The State has submitted a demonstration using the rollback technique which shows attainment of the secondary TSP standard by December 31, 1985. EPA has reviewed this demonstration and notes that the State plans to attain standards by limiting access to unpaved areas and by enforcing Regulation XVII relating to the control of fugitive TSP emissions. The State should submit an enforceable program to achieve TSP reductions by limiting access to unpaved areas and by making the suggested corrections to Regulation XVII to enhance its enforceability.

C. *Kanawha County and the Valley Magisterial District in Fayette County.*—Kanawha County and the Valley Magisterial District in Fayette County are designated as primary and secondary nonattainment for TSP. On April 6, 1979, West Virginia requested that these areas be redesignated to secondary TSP nonattainment. The request to redesignate these areas to secondary TSP nonattainment was based upon eight quarters (April, 1977–March, 1979) of measured TSP air quality data. EPA has reviewed this redesignation request, and has determined that this request meets EPA criteria for TSP redesignation. EPA intends to approve this request.

The State has submitted only a secondary attainment plan demonstration for this area. The plan shows, through the use of the rollback technique, that standards will be attained no later than December 31, 1985. The adequacy of this demonstration is under review by EPA.

D. *Winfield and Union Magisterial District (Marion County).*—The Winfield and Union Magisterial Districts in Marion County have been designated as primary and secondary nonattainment for TSP. The State has adequately demonstrated attainment of both the primary and secondary TSP standard by 1980 using air quality dispersion modeling.

Emission Inventory.—The plan submittal presented emission inventories for all the designated nonattainment areas for 1977 and 1982. EPA has reviewed the inventories and has found them lacking in detail. Specifically the plan does not identify 100 ton per year sources and provides no basis for any emission estimates. EPA has asked the State of West Virginia for additional information which the State has agreed to provide.

Reasonable Further Progress.—The State of West Virginia has submitted a graphical presentation of Reasonable Further Progress (RFP) for each nonattainment area. The RFP curves for each area are linear and represent the State's commitment to annual incremental reductions in TSP emissions. EPA has reviewed the RFP curves and has found them to be adequate.

Margin for Growth.—Growth projections for area sources were incorporated into the SIP emission inventories. However, these estimates were not completely explained. These growth factors should be documented further.

For major stationary sources the State has not provided for growth either through accommodation as a result of emission reductions beyond those required for attainment of the TSP standard or through a case-by-case emission offset regulation. The State should adopt regulations allowing for major stationary source growth in order to meet the requirements of Section 173 of the 1977 Clean Air Act Amendments.

Reasonable Available Control Technology (RACT).—West Virginia contends that all its existing regulations including the modifications to Regulations VI, controlling TSP emissions from incineration, and VII, controlling TSP emissions from manufacturing processes, require the application of RACT. EPA has reviewed the State's regulations and has found them generally to support the State's contention but has suggested modifications to regulations VI and VII, which as proposed fall short of EPA's guidelines.

Enforceability.—EPA has the following comments:

(a) *Regulation III* (Control of TSP emissions from hot mix asphalt plants). EPA finds this regulation acceptable.

(b) *Regulation VI and VII.* These regulations do not require Reasonably Available Control Technology (RACT); the State is working to correct these deficiences.

(c) *Regulations XVII.* EPA calls attention to the following deficiencies:

1. Such qualifying phrases as "in the judgement of the Commission", and "will have an effect on ambient air quality" make the regulation difficult to enforce and are undesirable.

2. Fugitive emissions from inactive storage piles are rarely "sustained", and this qualifying word should be omitted.

3. Material deposition and load out, operations which produce visible emissions, should not be exempted.

4. The provisions of Section 11 should only apply to malfunctions.

(d) *Regulation VIII* ("Ambient air Quality Standards for Sulfur Oxides and Particulate Matter").

Section 3.01 appears to be deficient in that it only requires attainment of NAAQS at sampling sites. EPA has also identified several deficiencies in the sampling methods specified in the regulation. EPA has notified West Virginia of these deficiencies.

General Comments

(1) *Pre-Construction Review.*—In order to allow for major point source construction in nonattainment areas, SIP's should contain regulations which meet the requirements of Section 173 of the 1977 Clean Air Act Amendments and EPA's January 16, 1979 Emission Offset Interpretative Ruling (44 FR 32 (1979)).

The West Virginia SIP does not contain any regulations which meet the requirements of Section 173 and the EPA Emission Offset Interpretative Ruling. EPA has notified West Virginia of this deficiency and understands that the State is in the process of developing suitable regulations.

(2) *Financial and Manpower Commitments.*—West Virginia has adequately committed the financial and manpower resources necessary to implement the plan for attainment.

(3) *Involvement and Consultation.*—West Virginia has shown that the public, and local government officials, were adequately involved in preparing the plan.

(4) *Analysis of Effects.*—The State has not addressed the health, welfare, economic, energy, or social effects of the plan as required by Section 172(b)(9) of the Clean air Act.

(5) *Committee Substitute for Senate Bill 518.*—West Virginia as part of its submittal included recently adopted legislation entitled *Committee Substitute for Senate Bill 518.* This Bill prohibits the adoption by the State of West Virginia of any rule, regulation, or plan more stringent than federal law. The EPA has requested the Air Pollution Control Commission to obtain the Attorney General's opinion regarding the impact of this legislation on the West Virginia SIP.

The following summary of major issues represent those items which EPA has identified in its preliminary review as the most important items in the West Virginia SIP.

1. West Virginia has not provided for a preconstruction review program that meets the requirements of Section 173 of the 1977 Clean Air Act Amendments and EPA's January 16, 1979 Emission Offset Interpretative Ruling (44 FR 3279 (1979)).

2. Regulations III, VI, VII, VIII, XVII, XVIII, XXI, XXIII, and XXIV have been adopted by the West Virginia Air Pollution Control Commission, however, they have not yet been adopted by the West Virginia Legislative Rulemaking Review Committee as required in Chapter 29(a), Article III, Section II of the Code of West Virginia.

3. Regulations XXI, XXIII, and XXIV contain inappropriate exemptions from RACT for certain VOC sources, lack test methods for determining compliance, and have ambiguous definitions.

4. Regulations VI, VII, and XVII relating to control of particulate emissions should be amended to reflect EPA's comments in the TSP section on enforceability and RACT.

5. West Virginia has not addressed the health, welfare, economic, energy or social effects of the plan as required by Section 172(b)(9) of the Clean Air Act.

6. A comprehensive and accurate TSP emissions inventories for TSP nonattainment areas are needed as part of the control strategy demonstrations.

Conclusion

The measures proposed today would be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without control or under less stringent controls while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicalbe pre-existing regulations would result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations because of a court order or for any other reason, the pre-existing regulations would be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the new regulations. In these situations, the State may exempt a source from compliance with the existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions

The public is invited to submit to the address stated above comments on whether the proposed amendments to the West Virginia air pollution regulations should be approved as a revision of the West Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

A supplement to an April 4, 1979 Notice of Proposed Rulemaking (44 FR 20372 (1979)) was published on July 2, 1979 (44 FR 38583 (1979)) involving, among other things, conditional approval. EPA proposes to conditionally approve the plan where there are minor deficiencies and the state provides assurances that it will submit corrections on a specified schedule. This notice solicits comment on what items should be conditionally approved. A conditional approval will mean that the restrictions on new major source construction will not apply unless, (1) the State fails to submit, by dates to be scheduled, SIP revisions necessary to remedy the deficiencies or (2) the revisions are not approved by EPA.

Deficiencies in the State of West Virginia's Plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. However, EPA is aware that the State of West Virginia is undertaking an effort to correct the deficiencies.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Authority: 42 U.S.C. §§ 7401–7642

Dated: July 16, 1979.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 79-22830 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1279-4]

Approval and Promulgation of Implementation Plans; Tennessee: Proposed 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed Rule.

SUMMARY: EPA today proposes approval action on the State Implementation Plan (SIP) revisions which the Tennessee Air Pollution Control Division submitted pursuant to requirements of Part D of the Clean Air Act Amendments (CAAA) of 1977 with regard to nonattainment areas. EPA has found all portions of the submitted revisions to be approvable except for certain portions of the transportation control plan which is needed to attain the air quality standards for carbon monoxide (CO) in Memphis and portions of the CO control strategy for Knox County. It is proposed to approve conditionally the CO control strategy of the Knox County SIP and the Memphis CO plan on condition that the

deficiencies noted be corrected by October 1, 1979, for Knoxville and December 30, 1979 for Memphis. If these deficiencies are not corrected by this date, EPA will disapprove this portion of the SIP. The public is invited to submit written comments on these proposed actions.

DATES: To be considered, comments must be submitted on or before August 23, 1979. A thirty-day comment period is being used to enable publication of final action on the SIP revisions as soon as possible after July 1, 1979, because a Notice of Availability was published more than 30 days ago and because the SIP submission and the issues involved are not so complex as to warrant a longer comment period.

ADDRESSES: Written comments should be addressed to Archie Lee of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.
Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308.
Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Archie Lee of EPA Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone 404/881-2864 (FTS-257-2864).

SUPPLEMENTARY INFORMATION:

Background: In the March 3, 1978, **Federal Register** (43 FR 8962 at 9035) and the September 11, 1978 **Federal Register** (43 FR 40412 at 40432) a number of areas within the State of Tennessee were designated as not attaining certain national ambient air quality standards. The areas designated nonattainment for the primary (P) and secondary (S) standards for total suspended particulate matter (TSP) are:

A. That portion of Anderson and Knox Counties surrounding TVA's Bull Run Plant. (S)
B. Those portions of Campbell County within downtown LaFollette and the area surrounding the Carborundum Company's plant at Jacksboro. (P&S)
C. That portion of Davidson County within the 1964 Urban Services area of Nashville. (P&S)
D. That portion of Hamilton County within, approximately, the city limits of Chattanooga. (P&S)
E. That portion of Maury County within the northern section of Columbia. (P&S)
F. That portion of Roane County within a downtown section of Rockwood. (P)
G. Those portions of Shelby County within two sections of downtown Memphis. (P)
H. Those portions of Sullivan County within a section of Bristol and a section of Kingsport. (P)
I. That portion of Sumner counter surrounding TVA's Gallatin plant. (S)

The areas designated nonattainment for the primary and secondary standards of sulfur dioxide (SO_2) are:

A. That portion of Polk County surrounding the Cities Service plant at Copperhill. (P&S)
B. That portion of Benton and Humphreys Counties surrounding TVA's Johnsonville plant. (P&S)

The areas designated nonattainment for (the same standards serve as both the primary and secondary standards) carbon monoxide (CO) are:

A. That portion of Davidson County located in downtown Nashville.
B. That portion of Knox County located in metropolitan Knoxville.
C. That portion of Shelby County located in metropolitan Memphis.

The areas designated nonattainment (the same standards serve as both the primary and secondary standards) for photochemical oxidants (ozone) are:

A. Nashville area—Davidson, Sumner, Rutherford, Wilson and Williamson Counties
B. Shelby County
C. Maury County
D. Hamilton County
E. Knox County
F. Sullivan County
G. Bradley County
H. Roane County

Implementation plan revisions under Part D of the CAAA were developed by the State for the following areas:

TSP—Sullvan County (Bristol), Campbell County, Sumner County, Anderson/Knox Counties.
SO_2—Polk County, Benton/Humphreys Counties.
CO—Shelby County, Knox County.

The implementation plan revisions for the remaining nonattainment areas will be proposed later as the SIP revisions are submitted.

These revisions were submitted for EPA's approval on February 13, 1979, with additional information on April 12, and 27, 1979. The Tennessee revisions have been reviewed by EPA in light of the CAAA of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4, 1979, (44 FR 20372) and need not be repeated in detail here. A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving, among other things, conditional approval.

EPA proposed to conditionally approve the plan where there are minor dificiencies and the State provides assurances that it will submit corrections or additional information by specified dates. This notice solicits comment on approvals, conditional approvals, and disapprovals. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

General Discussion

Section 172(b) of the CAAA contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Tennessee submittals.

172(b)(1) [SIP provisions shall] be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing;

Public hearings were held throughout the State on the adopted material following 30 days public notice. Public hearings were conducted October 16, 18, 19, and 24, December 11, 13 and 15, 1978; January 18, February 15, and April 10, 1979. These SIP provisions were adopted by the State on November 30, 1978, January 30, March 21, and April 26, 1979.

172(b)(2) [SIP provisions shall] provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonable Available Control Technology (RACT) see discussion after 172(b)(3) below.

172(b)(3) [SIP provisions shall] require, in the interim, reasonable further progress (as defined in section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

Reasonable further progress (RFP) graphs and calculations accompany each explanation of progress toward attainment for each nonattainment area. The SIP calls for meeting the national ambient air quality standards in all areas by the end of 1982 except for carbon monoxide in Memphis. The State has requested an extension to the end of 1987 for meeting the carbon monoxide standard in this area. Each area is discussed below.

Bristol (TSP)—The State has reviewed the sources in the nonattainment area and made RACT determinations for the sources. There are only two point sources in the area and one of the sources is moving its operation into another State by January, 1980.

Most of the State's new categorical requirements for this area involve the control of process fugitive and fugitive dust emissions.

When modelling the sources at their 1982 RACT allowable emission limits, attainment of the primary and secondary NAAQS by December, 1982, is predicted.

EPA proposes to approve the plan for this area.

Campbell County (TSP)

LaFollette—The nonattainment designation for this area is due largely to minerals handling and processing. These sources include an asphalt concrete plant, limestone aggregate plant, and a feed and grain mill. The State reviewed all the sources in the area and made RACT determinations. The RACT determinations involve the control of fugitive dust on plant property, hours of operation restrictions and a reduction in the source's allowable stack emissions. The regulatory requirements adopted were new categorical visible emissions and emission limitations for the sources affecting the nonattainment area. Modelling all the surces at their 1982 RACT allowable emission limits demonstrates attainment of the primary and secondary standards by 1982.

Jacksboro —The primary cause of nonattainment for this area is the emissions from the Carborundum Company (a silicon carbide manufacturing plant). The State evaluated this source and made a RACT determination. The areas where most emission reductions will be achieved are the loading and unloading of silicon carbide furnace cars and the crushing, screening, and bagging of silicon carbide. The adopted regulations for the silicon carbide plant tighten the visible emissions and emission limits for processes at the source. After the application of RACT, modelling shows that the area will attain the primary and secondary standard by the end of December, 1982. EPA is proposing to approve the plan for this area.

Sumner County (TSP)—The nonattainment designation for this area was due to the noncompliance of a TVA power plant in the area. TVA has completed improvements to the TSP control system and no violations have been recorded since the completion of the improvements. The State contends that the existing SIP is adequate and that indications of attainment of the standards should continue since the TVA plant is in compliance with the applicable emission limits. EPA agrees with the State and proposes to approve this as the plan.

Anderson/Knox Counties (TSP)—The nonattainment designation for this area was due to a TVA power plant in the area. The power plant's TSP control system was not operating properly due to some mechanical deterioration in the system. The necessary improvements and repairs have been completed and the State contends that the area will attain the ambient standards since the power plant will now comply with the applicable emission limitations. The State of Tennessee submits that the existing SIP for the area is adequate and EPA is today proposing to approve the plan for this area.

Copperhill (SO_2)—Cities Service Company (primary copper smelter) is the main source of sulfur dioxide emissions in the area. The company has made several major improvements in the last few years and the magnitude of violations has been reduced. The source is located in mountainous terrain which tends to worsen the dispersion of the emissions. A good engineering practice (GEP) review of the stacks at the smelter revealed that the existing stacks comply with GEP and in some instances (for example at the liquid sulfur dioxide plant) were at a height less than GEP. The State made a RACT evaluation of sources in the area. Based upon this evaluation the State adopted regulations for the area which involved operating hours restrictions, limits on sulfur content of fuels, and special requirements for processes during startup and shutdown at the copper smelter as well as emission limits on processes during normal operation.

Modelling the sources at their 1982 RACT allowable emission limit demonstrates attainment of the primary NAAQS by the end of December, 1982. The State has asked for an 18-month extension in order to develop the attainment plan for secondary standards. EPA is today proposing to approve Tennessee's request for an eighteen month extension to submit their plan for attainment of the secondary standard and to approve the plan for attainment of the primary standard.

Johnsonville Area (SO_2)—The nonattainment designation of this area was due primarily to the noncompliance of the TVA Johnsonville plant. The State contends that the existing EPA approved SIP for the area is adequate and attainment will be achieved when the TVA plant complies with the presently applicable emission limits. Compliance is predicted by the end of 1982 since that is required by an Agreement TVA signed with EPA and others. The acceptability of this Agreement is currently the subject of litigation in *Thoracic Society et al.* v. *Freeman* Civ. No. 77-3286-NA-CV (M.D. Tenn. filed June 23, 1977). The requirements of the Agreement, if acceptable to the Court in that case, will be reflected in a future SIP revision by the State. EPA is proposing to approve this as the nonattainment plan for the Johnsonville area.

Shelby County (CO)—the State has calculated that a 36% reduction in CO emissions is necessary to achieve the 10 mg/m^3 8-hour ambient standard. Since approximately 94% of the CO emissions are attributed to motor vehicles, almost all emission reduction measures are directed toward this source category through use of the Federal Motor Vehicle Control Program (FMVCP), consisting of certification of new light duty vehicles and truck engines as meeting federal emissions standards. Shelby County will be unable to meet the CO ambient standard by the end of 1982. Therefore, an extension has been requested to 1987 and the State must implement a mandatory inspection and maintenance program for motor vehicles, transportation control measures, and a new source review program consistent with the requirements of 172(b)(11)(A). EPA's review of the Memphis CO control strategy has revealed several deficiencies. The State has indicated that some of the deficiencies related to transportation control measures will be corrected in later submittals.

EPA proposes to conditionally approve the Shelby County (Memphis) CO control strategy until acceptable additions have been submitted. EPA has received an opinion from the Tennessee Attorney General concluding that there is sufficient statutory authority for an inspection and maintenance program to be implemented by certain cities in the State. EPA has received a legal opinion from the Memphis City Attorney's office concurring with the legal opinion of the Attorney General and indicating that Memphis is one of the cities with this authority. Further, the City has submitted a letter indicating that inspection requirements (which EPA interprets as including a requirement to meet specified emission levels) must be met before an inspection decal will be issued.

In addition, the Mayor of Memphis has submitted a letter committing to support an I/M program in Memphis and committing to the I/M schedule submitted in the SIP (§ 2.21.4.1.4 and Table 1). It should be noted that the Mayor's commitments to I/M are made "(c)ontingent upon the support of the Memphis City Council" for future resources and the final specific regulations. While EPA recognizes that the Mayor cannot commit the City Council to any future action, it should be understood that a failure by the City to institute a mandatory I/M program according to the schedule submitted in the SIP will make the area liable to the imposition of sanctions under the Clean Air Act.

The remaining commitment in the SIP is one by the State regarding emission reductions. The program implemented by the schedule would entail inspection and maintenance of light-duty vehicles in a centralized program initiated with voluntary repair in December 1980 and full mandatory operation in December 1981. As a result of its Reasonable Further Progress calculation, the State has committed to a CO emission reduction of at least 25% from light-duty vehicles by 1987. Thus the City of Memphis has generally adequate legal authority, commitments, and schedules to implement the I/M program.

The conditional approval that EPA is proposing today is based upon the proper officials correcting the deficiencies noted below before full approval can be given.

1. The submittal does not identify projects in the current Annual Element of the Transportation Improvement Program (TIP) which have air quality benefits. Measures that are found to have benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Commitments from the proper officials, where appropriate, to enforcement of the measures must be included.

2. The submittal does not contain a schedule for the analysis of the alternative transportation control measure under Section 108. Also, there is no commitment from the proper agency(s) to the implementation as expeditiously as practicable of measures found feasible for adoption or to justify the decision not to implement any of these measures.

3. The submittal does not contain commitment of the proper agency(s) to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable.

4. Under Section 174, the Memorandum of Understanding (MOU) between the proper local and State officials includes a commitment to the implementation of stationary source controls but not mobile source controls.

5. The schedule for the I/M program is generally adequate, although some of the dates need to be revised.

Therefore, EPA proposes to conditionally approve the Shelby County (Memphis) CO control strategy based on the revised strategy being submitted by December 30, 1979. Due to the legal procedures in Tennessee for adopting revisions, this length of time is necessary to comply with both the State and EPA requirements.

Knox County (CO)—The State has calculated that a 27% reduction in CO emissions is necessary to achieve the 10 mg/m^3 8-hour ambient standard. Since greater than 90% of the CO emissions are attributed to motor vehicles, the emission reduction measures are directed toward this source category through use of the FMVCP. In the control strategy submitted to EPA, the plan did not show attainment before 1982. EPA contacted the State on this matter and requested the State to confirm that the information and data submitted was correct. When the State investigated the original calculations, they discovered that errors had been made in the base year emission inventory. With these corrections made, the area would show attainment by the end of December, 1982. Therefore, EPA is proposing to conditionally approve the Knox County CO plan, and the revised control strategy showing attainment must be submitted by October 1, 1979.

172(b)(4) [SIP provisions shall] include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate emissions inventories for TSP, SO_2 ozone (the inventory is for hydrocarbons which react with sunlight to form ozone), and CO have been submitted. Future reporting requirements for updating inventories annually are included.

172(b)(5) [SIP provisions shall] expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

There is no identification and quantification of emissions from major new or modified sources. Therefore, offsets under Section 173 of the CAAA will be required for these new sources. The State expects to be able to satisfy the offset requirement also through emissions reductions on other sources, in excess of the reductions needed to provide for reasonable further progress. The mechanism for tracking these reductions and allowing growth in nonattainment areas is provided in Chapter 1200–3–9 of the Tennessee Air Pollution Control Regulations. EPA proposes to approve this portion of the plan.

172(b)(6) [SIP provisions shall] require permits for the construction and operation of new or modified stationary sources in accordance with Section 173 (relating to permit requirements);

The State requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (Tennessee Rule 1200–3–9–.01[5]).

172(b)(7) [SIP provisions shall] identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

The State has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. In section 2.11 (tables 1 and 2), the State has projected the amount of manpower and funding which will be expanded through FY 1983 to carry out the requirements of the SIP.

172(b)(8) [SIP provisions shall] contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package contains the necessary emission limitations and schedules of compliance for stationary sources of TSP, SO_2, and CO sources where appropriate. These provisions have been incorporated into a newly adopted Chapter 19 for nonattainment areas.

172(b)(9) [SIP provisions shall] contain evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 (relating to planning precedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Consultation with the public, local governments and State legislative involvement is evidenced by a listing of correspondence in the SIP. The State's analysis of the air quality, health, welfare, economic, energy, and social effects determine that the impact of the SIP will be beneficial, and EPA proposes to appove this portion of the SIP.

172(b)(10) [SIP provisions shall] include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

172(b)(9) [SIP provisions shall] contain evidence of public, local government, and State legislative involvement and consultation in accordance with section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Consultation with the public, local governments and State legislative involvement is evidenced by a listing of correspondence in the SIP. The State's analysis of the air quality, health, welfare, economic, energy, and social effects determine that the impact of the SIP will be beneficial, and EPA proposes to approve this portion of the SIP.

172(b)(10) [SIP provisions shall] include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the State of Tennessee the Air Pollution Control Division of the Department of Public Health has full statutory authority for enforcing the SIP revisions submitted. The Board of Air Pollution Control adopted on November 30, 1978, January 30, March 21, and April 26, 1979, the necessary regulatory portion of the SIP submitted. Timetables for compliance are addressed in 172(b)(8).

172(b)(11) [SIP provisions shall] in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a),

(A) Establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis, of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly out weight the environmental and social costs imposed as a result of its location, construction, or modification.

(B) Establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) Identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph 11 of subsection 172(b) applies to the Memphis nonattainment area for carbon monoxide. The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP as a revision to the State's permitting regulation (Tennessee Rule 1200–3–9–.01[5]).

In addition to the implementation plan for the nonattainment areas under Part D of the CAAA, the SIP revisions contain changes applicable to other portions of the CAAA, including changes to the Tennessee ambient air quality standards, malfunction regulations, NSPS regulations, regulations concerning prevention of significant deterioration, and other emission standards. These topics will be dealt with in a separate **Federal Register.**

Proposed Action

Based on the foregoing, EPA is proposing to approve fully the SIP under Part D of the CAAA, as it relates to the attainment of TSP standards in Bristol, Campbell County, Sumner County and Anderson/Knox Counties; SO_2 in Polk County and Benton/Humphreys Counties; and conditionally approve the plan for carbon monoxide in Knoxville and Memphis. It is proposed to disapprove the Memphis CO plan.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: June 11, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79–22828 Filed 7–23–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1279–5]

[40 CFR Part 52]

Commonwealth of Pennsylvania: Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: A revision to the Pennsylvania State Implementation Plan (SIP) for the attainment of particulate matter, ozone and carbon monoxide standards has been submitted to the Environmental Protection Agency (EPA) by the Governor on April 24, 1979 and on June 7, 8, 12, and 13, 1979. As of June 15, 1979 no revision to the SIP for the attainment of the particulate matter standard in Allegheny County or for the attainment of the sulfur dioxide standard in various designated nonattainment areas throughout the Commonwealth had been submitted. The intended effect of the revision is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements For Nonattainment Areas". This Notice provides a description of the proposed SIP revision, summarizes the Part D requirements, compares the revision to these requirements, identifies major issues in the proposed revision, and suggests corrective actions.

On April 4, 1979 [44 Fed. Reg. 20372 [1979]) EPA published a proposed rule entitled "General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas". The general preamble supplements this proposal, by identifying the major considerations that will guide EPA's evaluation of the submittal. The EPA invites public comments on this revision, the identified issues, the suggested corrections, and whether the revision should be approved or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATE: On June 11, 1979 the Regional Administrator, EPA Region III, published a Notice of Availability [44 FR 33438 [1979]) of the proposed revision to the Pennsylvania State Implementation Plan (SIP) for public inspection. Therefore, the Regional Administrator believes that a 30-day public comment period following publication of this Notice of Proposed Rulemaking will be sufficient to afford the public opportunity to submit comments. Therefore, comments must be submitted on or before August 23, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.,S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106, Attn: Brian J. McLean.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, D.C. 20460.

Bureau of Air Quality Control, Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 17120, Attn: Gary L. Triplett.

All comments on the proposed revision should be directed to: Mr. Howard R. Heim Jr., Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: AH300PA.

FOR FURTHER INFORMATION CONTACT: Brian J. McLean (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: 215/597–8186.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August 1977, Pub. L. No. 95–95 (42 U.S.C. § 7472), require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each State to submit to the Administrator a list of the NAAQS attainment status for all areas within the State. The Administrator promulgated these lists on March 3, 1978 (43 Fed. Reg. 8962 [1978]) and on September 12, 1978 (43 FR 40502 [1978]). The entire State of Pennsylvania was designated as nonattainment for ozone and various portions of the State were designated as nonattainment for total suspended particulate matter (TSP), sulfur dioxide (SO_2), and carbon monoxide (CO). As a consequence, the Commonwealth of Pennsylvania was required to develop, adopt, and submit to EPA a revision to its SIP, for those nonattainment areas by January 1, 1979. The revision must conform to requirements of Part D of Title I of the Clean Air Act, as amended, and provide for attainment of the NAAQS as expeditiously as practicable. In accordance with these requirements, Governor Richard Thornburgh and Clifford Jones, Secretary of Environmental Resources, acting on behalf of the Governor, submitted a revision of the SIP on April 24, 1979 and on June 7, 8, 12, and 13, 1979.

On June 11, 1979 (44 FR 33438 [1979]), EPA published a Notice of Availability of those portions or drafts of portions of the Commonwealth of Pennsylvania SIP revision received as of June 1, 1979 and invited the public to inspect the plan. As yet, no public comments have been received. EPA has reviewed the SIP revision with respect to the requirements and criteria described or referenced in the **Federal Register** notice published on April 4, 1979 (44 FR 20372 [1979]). This notice to which interested persons may refer is entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas", and is incorporated herein by reference. A summary of the criteria for approving SIP's for nonattainment areas follows.

Criteria for Approval

The following list summarizes the basic requirements for nonattainment area plans.

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.
4. An accurate inventory of existing emissions.
5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.
6. An identification of emissions growth.
7. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M), if necessary, as expeditiously as practicable.
10. Necessary transportation control measures, as expeditiously as practicable.
11. Enforceability of the regulations.
12. An identification of, and commitment to, the resources necessary to carry out the plan.
13. State commitments to comply with schedules.
14. Evidence of public, local government, and State involvement and consultation.

In the following sections of this Notice there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below:

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emission necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

Sulfur Dioxide

Several areas of the Commonwealth of Pennsylvania have been designated by EPA as not attaining the NAAQS for SO_2. The following is a summary of those nonattainment areas published in the **Federal Register** on September 12, 1978 (43 FR 40515 [1978]):

1. A portion of the City of Philadelphia (census tracts 2, 3, 4, 5, 6, 7, 8, 11, 12).
2. Allegheny County.
3. Monongahela Valley Air Basin.
4. Portions of Northumberland County (Lower Augusta Township, Point Township, Little Mahanoy Township, Rockefeller Township and Shamokin Township) and Snyder County (Shamokin Dam).
5. A portion of Armstrong County (Madison Township, Mahoning Township, Boggs Township, Washington Township, and Pine Township).
6. A portion of Warren County (Conewango Township).

The rest of the Commonwealth is classified as either attaining the NAAQS or "cannot be classified". This latter designation is given to those areas where there are insufficient data to support either an attainment or a nonattainment classification.

For those areas designated as nonattainment, the Act requires the Commonwealth of Pennsylvania to submit a revision to its SIP to demonstrate attainment of the primary NAAQS by December 31, 1982, and the secondary NAAQS as expeditiously as practicable. Within the Commonwealth, three agencies have primary responsibility for the preparation of the SIP: Allegheny County Health Department, Bureau of Air Pollution Control (BAPC) for Allegheny County; City of Philadelphia Health Department, Air Management Services (AMS) for the City of Philadelphia; and the Pennsylvania Department of Environmental Resources (DER) for the remainder of the State.

The status of the nonattainment SIP revisions for the six areas identified above is discussed below:

1. *City of Philadelphia.* DER and AMS have submitted a SIP revision that demonstrates attainment of the NAAQS for SO_2 by December 31, 1982. This revision was proposed in the **Federal Register** on December 27, 1978 (43 FR 60305 [1978]), and final rulemaking approving the revision was published on June 4, 1979 (44 FR 31980 [1979]). The plan as revised also demonstrates reasonable further progress to attain standards and contains an adequate inventory of emissions. In addition, the revision contains an adequate assessment of air quality, health, welfare, economic, energy, and social effects; and satisfies all other pertinent Part D requirements. Therefore, no further submittals are necessary for this nonattainment area.

2. *Allegheny County.* A SIP revision to demonstrate attainment of the NAAQS for SO_2 in Allegheny County is being prepared by the Allegheny County BAPC. After submittal by the Governor and review by the EPA, it will be proposed in a subsequent **Federal Register** Notice.

3. *Monongahela Valley Air Basin.* On June 15, 1979 (44 FR 34603 [1979]) EPA published a proposal to redesignate this air basin from "does not meet primary standards" to "cannot be classified." This proposal is based in part on a showing by Pennsylvania that no monitored violations of either the primary or the secondary NAAQS for SO_2 occurred during calendar year 1978. Furthermore, the State indicated that attainment of standards is supported by emission reductions in the area over the past year. In addition, results of an ongoing modeling study indicate no violations of the primary annual or 24-hour SO_2 NAAQS for the base year (1976) and for the compliance case, *i.e.*, where all sources are assumed to be in compliance with the existing SIP. Based on the foregoing, EPA, in its proposal to redesignate the area, indicated that a revision to the existing SIP by July 1, 1979, is not necessary.

4. *Armstrong County, Northumberland County, Snyder County and Warren County (the Townships in these Counties Identified Above).* The designation of these areas as nonattainment was based primarily on an air diffusion modeling study performed for DER by a consultant, Geomet, Inc. The study calculates that NAAQS violations for SO_2 result from emissions of three power plants located in these areas. The power plants are identified as follows: the Sunbury plant (owned by Pennsylvania Power and Light Company and impacting portions of Northumberland and Snyder Counties); the Armstrong plant (owned by West Penn Power Company and impacting a portion of Armstrong County); and the Warren plant (owned by Pennsylvania Electric Company and impacting a portion of Warren County).

On April 24, 1979, Pennsylvania submitted a proposed revision of the SIP for SO_2 which primarily addressed the format of the Commonwealth's SO_2 regulations, making them sensitive to the variability in the sulfur content of coal and to the availability of liquid fuels according to sulfur content. However, this proposed revision does not, nor was it intended to resolve the nonattainment situations resulting from the three power plants. Although Pennsylvania has not formally submitted a plan for these nonattainment areas, EPA has reviewed drafts of Consent Agreements being negotiated with the power companies to reduce SO_2 emissions. Upon execution of these agreements, DER intends to submit them to satisfy the requirements for nonattainment SIP revisions. Due to the time constraints imposed by the Clean Air Act, DER has submitted the draft of the revision with the understanding that EPA will propose and solicit public comment on DER's approach to satisfying the SIP revision requirements.

The draft Consent Agreements contain three parts. Part I imposes a final emission limitation and an interim emission limitation for each plant, both of which are more stringent than the State's current emission limitation. The final emission limitation is based on the Geomet study and is to be effective December 31, 1982. Part II gives each company the option of performing an additional modeling study with the intent of showing that the final emission limitation required by the Geomet study is too stringent. The results of this additional modeling study may be used either to redesignate the affected area(s) as "attainment" under the current SO_2 regulations, or to impose a different emission limitation which might be more or less stringent than the one required by the Geomet study. Part II sets out the requirements for a plan to attain the NAAQS to be submitted in the event the additional modeling study of Part II fails to satisfy DER and EPA that the area should be redesignated.

Upon receipt of final Consent Agreements from Pennsylvania and of Pennsylvania's request to consider the agreements as a SIP revision, EPA will evaluate the submittal to determine if it meets the requirements of Section 110 and Part D of the Clean Air Act, relating to plan requirements for nonattainment areas and will take appropriate action.

Total Suspended Particulates

Description of Submittal. On June 12, 1979, the Commonwealth of Pennsylvania officially submitted a proposed revision to the SIP for attainment of the primary and secondary NAAQS for total suspended particulates (TSP). For the following areas, the proposed revision addresses the attainment of both primary and secondary NAAQS for TSP:

1. Allentown-Bethlehem-Easton Air Basin
2. Beaver Valley Air Basin
3. Monongahela Valley Air Basin
4. Cities of Sharon and Farrell in Mercer County
5. York Air Basin
6. Erie Air Basin
7. Lancaster Air Basin
8. Johnstown Air Basin

For the following areas, the proposed revision addresses only the attainment of the secondary NAAQS for TSP:

1. City of Altoona in Blair County
2. Harrisburg Air Basin
3. Reading Air Basin
4. Scranton Wilkes-Barre Air Basin
5. City of Williamsport in Lycoming County

The Commonwealth of Pennsylvania has requested an eighteen month extension to submit a plan for attainment of the secondary NAAQS for TSP in the portions of the Metropolitan Philadelphia Interstate Air Quality Control Region (AQCR) designated as not meeting the secondary standard for TSP. The Regional Administrator is proposing to grant this request.

The nonattainment designations to which the proposed SIP revision responds differ from those published on September 12, 1978 (43 FR 40502 [1978]). Specifically, the Harrisburg, Scranton-Wilkes-Barre, and Reading Air Basins, the Cities of Altoona and Williamsport, and portions of the Metropolitan Philadelphia Interstate AQCR had been identified as not attaining the primary NAAQS. However, on July 2, 1979 (44 FR 38585 [1979]), EPA proposed that these areas be redesignated from primary standard nonattainment to secondary standard nonattainment.

The June 12, 1979 submittal by the Commonwealth of Pennsylvania does not include any information on the Allegheny County portion of the proposed revision of the SIP for TSP. EPA is aware, however, that the Bureau of Air Pollution Control of the Allegheny County Health Department is nearing

completion of a revision to the Pennsylvania SIP for TSP for Allegheny County; EPA anticipates receiving that proposed revision of the SIP from the Commonwealth of Pennsylvania in the near future.

For each area, the plan submitted by the State contains: 1) an emission inventory, 2) a demonstration that more than the application of Reasonably Available Control Technology (RACT) is needed for attainment of the standards, 3) a commitment to annual incremental reductions (Reasonable Further Progress), and 4) a proposal for further study of fugitive emissions to result in the adoption of fugitive particulate regulations. In all cases, the Commonwealth commits to attaining the primary NAAQS for TSP by December 31, 1982, and the secondary NAAQS for TSP by December 31, 1987. In addition, Pennsylvania submitted a revision to the test method for sampling particulate matter from sources, Section 139.12 of the Pennsylvania Air Resources Regulations.

EPA has reviewed the proposed TSP plan revision for Pennsylvania and has identified several areas of concern to which public comment is solicited. The following is a summary of EPA's review.

Adoption After Reasonable Notice and Hearing. Pennsylvania held public hearings on the proposed TSP plan revision on May 2, 3, and 4, 1979. The State has submitted evidence of public notice and public hearing which EPA confirms were held in accordance with the requirements of 40 CFR 51.4.

Control strategy and Demonstration of Attainment. The Commonwealth of Pennsylvania submitted as part of its proposed SIP revision for TSP detailed studies of existing and projected suspended particulate levels for all thirteen nonattainment areas. In all areas except the Johnstown Air Basin, the demonstration included a diffusion modeling analysis. For the Johnstown Air Bain, Pennsylvania was unable to adequately validate a diffusion model because of the complexity of the terrain and, consequently, utilized a linear rollback model. EPA has reviewed the modeling demonstrations for all areas including the two alternatives presented by DER for the Johnstown Air Basin and has concluded that the State has adequately demonstrated in all cases the need for non-traditional fugitive emission controls which exceed RACT. In general, the State has shown that about 40 percent of the TSP ambient concentrations are attributable to fugitive emissions. Furthermore, the EPA concurs with the State's demonstration showing attainment of the primary NAAQS for TSP by December 31, 1982. However, with regard to the State's intention to attain the secondary NAAQS by December 31, 1987, EPA has expressed concern to the State that December 31, 1987 may not meet the criteria of Section 172(a)(1) requiring attainment of the secondary standards as expeditiously as practicable.

A major portion of the State's demonstration to attain both the primary and secondary standards is its plan for investigating and controlling non-traditional particulate matter emissions in all 13 nonattainment areas. In this plan, Pennsylvania commits to undertake a comprehensive program to investigate non-traditional sources, industrial process fugitive particulate emissions, and alternative control measures and to develop and implement an effective control program to attain the primary and secondary NAAQS. The EPA commends the Commonwealth of Pennsylvania for the comprehensiveness of their study and encourages the State to include the Optional Tasks related to filter analysis and implementation of demonstration projects as integral parts of its study. However, EPA is concerned that the State's schedule for developing and adopting the control measures, beginning in November 1981, may not provide sufficient time for sources to comply with fugitive regulations to assure attainment of the primary standards by December 31, 1982.

Margin for Growth. The State accommodates growth of area sources and of some point sources by including a growth increment of one half of one percent each year for all projected emissions from 1979 through 1987; this growth increment is in addition to estimates of projected growth for each area. Increases in emissions from major point sources will be provided for on a case-by-case emission offset basis. EPA generally concurs with the approach taken by the State. Specific comments related to the offset provision will be addressed in the section entitled *General Comments, Permit Program for New and Modified Sources.*

Emission Inventory. The emission inventory for TSP includes actual emissions for a base year (1975, 1976, or 1977) and projected emissions for 1982 (the primary standard attainment date) and 1987 (the secondary standard attainment date). EPA has reviewed the emissions inventory and has found inconsistencies among several charts and graphs presented in the plan. In particular, for the Beaver and Monongahela Valley Air Basin, EPA's review of the inventory has identified several major source categories where fugitive emission estimates are either incorrect or missing. EPA has notified the State of the discrepancies and an effort is being made to resolve the problem. Despite this problem, EPA has concluded that the State is correct in its contentions that control beyond RACT for stationary sources is needed to attain the NAAQS for TSP and that the implementation of non-traditional fugitive controls is needed for attainment of the primary standard by 1982 and the secondary standard by 1987.

Reasonable Further Progress. The Commonwealth of Pennsylvania has submitted a graphical presentation on Reasonable Further Progress (RFP) for each nonattainment area. Each RFP curve is linear, with different slopes for the periods 1977 through 1982 and 1982 through 1987, and represents the State's commitment to annual incremental emission reductions for TSP emissions. The EPA has reviewed the RFP curves and has found them to be generally adequate. However, as noted earlier in this Notice, EPA is concerned whether the emission reductions committed to by the State for secondary standards attainment are as expeditious as practicable.

Reasonably Available Control Technology. The State concluded that its existing regulations for stationary sources represent Reasonably Available Control Technology (RACT) for TSP. Furthermore, the State has determined that the application of RACT is not sufficient for attainment because of the relatively small contribution of stationary sources to the nonattainment problem in most areas. The EPA agrees with the State's conclusions.

Enforceability. The revision to the Pennsylvania SIP regarding the method for sampling particulate emissions, Section 139.12, is acceptable to EPA. The enforceability of the Offset provision is discussed in the section below, entitled *General Comments, Permit Program for New and Modified Sources.*

Ozone and Carbon Monoxide

The Commonwealth of Pennsylvania officially submitted a proposed revision of the SIP for ozone (less the transportation element) to EPA on April 24, 1979. The transportation element of the SIP was officially submitted on June 7, 8, and 13, 1979. The ozone submittal encompasses the entire Commonwealth of Pennsylvania, including the six metropolitan areas over 200,000 in population: Philadelphia, Pittsburgh, Harrisburg, Scranton, Wilkes-Barre, and Allentown-Bethlehem-Easton. In

addition to control of stationary sources, control of transportation sources are required for these six areas. Revisions to the SIP for carbon monoxide are included in the transportation element for the nonattainment areas of Philadelphia and Pittsburgh.

Allegheny County has adopted separate regulations covering volatile organic compounds (VOC); the Commonwealth has submitted the County's VOC regulations for proposal as part of the Pennsylvania SIP. The regulations proposed by Allegheny County are substantially consistent in content with the regulations submitted by the Commonwealth. Except where noted, comments pertaining to the Pennsylvania VOC regulations are also applicable to the Allegheny County regulations.

For ozone nonattainment areas, EPA requires the adoption of Reasonably Available Control Technology (RACT) for eleven VOC stationary source categories. Pennsylvania regulates all eleven of these categories in the SIP. These categories are: 1) solvent metal cleaning, 2) tank truck gasoline loading terminals, 3) cutback asphalt, 4) bulk gasoline plants, 5) gasoline service stations—Stage I controls, 6) storage of petroleum liquids in fixed-roof tanks, 7) surface coating of large appliances, 8) surface coating of cans, coils, paper, fabrics, automobiles, and light-duty trucks, 9) surface coating of metal furniture, 10) surface coating for insulation of magnet wire, and 11) petroleum refineries.

For a summary and review of the transportation measures included in the Pennsylvania SIP, please refer to the section of this notice entitled *Transportation Element.*

The following discussion will outline the various elements of the Pennsylvania submittal with respect to ozone (and to carbon monoxide where specifically noted) and will indicate whether the basic requirements of the Clean Air Act have been satisfied.

Adoption After Reasonable Notice and Hearing. Pennsylvania has adequately satisfied the requirements of this section. Public hearings, concerning the ozone provisions of the SIP, were held in various areas of the Commonwealth on January 30 and 31, 1979 and on February 1, 6, 8 and 20, 1979 in accordance with 40 C.F.R. Part 51. Subsequent to these public hearings, the regulations were formally adopted on April 9, 1979 by the Pennsylvania Environmental Quality Board and on May 10, 1979 by the Allegheny County Board of Commissioners.

Attainment Date. As stated in the April 24, 1979 submittal, the Commonwealth of Pennsylvania does not anticipate attaining the ozone standard by the end of 1982 in any of the metropolitan areas except Harrisburg. Therefore, except for Harrisburg, an extension of the deadline until the end of 1987 for attaining the standard has been requested. EPA can approve an extension of the attainment date provided Pennsylvania demonstrates that attainment by 1982 is impossible, despite the implementation of RACT for the VOC stationary source categories and the implementation of reasonably available transportation control measures, including a motor vehicle inspection and maintenance (I/M) program. As discussed below, some of the VOC regulations submitted are not consistent with the RACT guidance.

Control Strategy and Demonstration of Attainment. The Pennsylvania SIP was developed using the 0.12 ppm ozone standard. An acceptable commitment to attain the ozone standard by 1987 in all areas of the Commonwealth was provided in the SIP.

Emission Inventory. Pennsylvania has submitted a 1976 emission inventory. EPA requires that if the emission inventory was developed for a year other than 1977, a commitment to develop a 1977 inventory should be provided. Pennsylvania has committed to develop a 1977 base year inventory by November of 1979. Therefore, the emission inventory in the Pennsylvania SIP satisfies requirements at this time.

Reasonable Further Progress. The Reasonable Further Progress presentation in the proposed Pennsylvania ozone SIP revision is acceptable.

Margin for Growth. The Commonwealth of Pennsylvania has adequately addressed growth in its plan by incorporating a margin for growth beyond that currently expected for each metropolitan area.

Permit Program for New or Modified Sources. This topic is covered for all pollutants in the section of this notice entitled General Comments, Permit Program for New or Modified Sources.

Reasonably Available Control Technology. The Control Techniques Guidelines provide information on available air pollution control documents techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the GTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs.

There are two deficiencies in the cutback asphalt paving regulations in Section 129.64 of the State regulations and Section 510 of the Allegheny County regulations. First, the exemption allowing the use of cutback asphalt as a tack coat is not supported by the information in the CTGs. Second, in Section 121.1 (State Regulation) and Section 101 (County Regulation), emulsified asphalt containing less than twleve percent of solvent by volume is exempted from the definition of cutback asphalt. Allowing up to twelve percent solvent in an emulsified asphalt is not supported by the information in the CTGs. If such an emulsion can be used in place of cutback asphalt, and if the emulsion contains less solvent than the replaced cutback, Pennsylvania should allow the use of this emulsion only as an interim measure until a switch can be made to an emulsion containing five percent or less solvent.

Inspection and Maintenance (I/M). An I/M program is required in five metropolitan areas in Pennsylvania: Philadelphia, Pittsburgh, Scranton, Wilkes-Barre, and Allentown-Bethlehem-Easton; the programs in the Philadelphia and Pittsburgh metropolitan areas should have inspection and maintenance of vehicles for carbon monoxide as well as hydrocarbons. According to the Consent Decree signed by the Pennsylvania Department of Transportation, the Delaware Valley Citizens' Council for Clean Air, and the Environmental Protection Agency on August 29, 1978 (Appendix 6 of the April 24, 1979 submittal), the Pennsylvania Department of Transportation is required to establish a mandatory inspection/maintenance program for light-duty and medium-duty vehicles in the five-county areas surrounding Philadelphia and Pittsburgh. Detailed schedules for major activities related to the establishment of an inspection/maintenance program are incorporated into the Consent Decree. If enabling legislation for a franchise (contractor-operated) system is enacted by July 1, 1979 (with a possible three-month extension), then a mandatory inspection/voluntary maintenance program must commence within twenty-one months after enactment of legislation, and a mandatory inspection-mandatory maintenance program must commence within thirty-three months. If

such legislation is not enacted by July 1, 1979, or within the mutually agreed extended time period, then a mandatory inspection/voluntary maintenance program using a private garage system must commence by August 1, 1980 (or November 1, 1980, if the extension is granted), and a mandatory inspection/mandatory maintenance program must commence by February 1, 1981 (or May 1, 1981, if the extension is granted). On June 7, 1979, Pennsylvania committed to follow identical schedules for Lackawanna, Luzerne, Lehigh and Northampton Counties which include the Scranton, Wilkes-Barre, and Allentown-Bethlehem-Easton areas. Therefore, adequate commitments for implementation of I/M in all five metropolitan areas have been submitted.

Transportation Measures. This topic is covered in detail in the section of this Notice entitled *Transportation element.*

Enforceability. The VOC regulations contain several deficiencies with respect to their enforceability.

a. Permitted in Pennsylvania'a "Bubble" Regulation, Sections 129.53(c) and (d) covering surface coating operations, are:

(1) fluctuating emission limitations on each coating line, and

(2) determining process compliance with alternative standards on a daily basis.

The enforcement of the above requirements may be diffcult. However, the regulations require these methods to be as enforceable as alternative standards set forth under Section 129.53(b). The burden of proving equivalent enforceability is placed on the source applying for the application of an alternative standard.

Pennsylvania's "Bubble" Regulation is acceptable since a case-by-case review, subject to EPA approval, is required prior to permitting use of an alternative standard.

b. Pennsylvania and Allegheny County should improve Section 129.62(b)(3) of the State regulations and Section 508(B) of the County regulations, which address the regulations covering bulk gasoline terminals, bulk gasoline plants, and small gasoline storage tanks, by redefining truck vapor leakage in terms of pressure leakage or lower explosive level (LEL) limits. The citing of vapor leak violations based on visual and audible observances is difficult to enforce.

c. In Section 129.66 of the State regulations and Section 512 of the Allegheny County regulations, covering compliance schedules and final compliance dates, Pennsylvania and the County have included compliance schedules that allow certain source categories up to three years to comply. The State regulations, but not the Allegheny County regulation, provide for extension of the categorized compliance schedules until June 30, 1985 by the issuance of Delayed Compliance Orders (DCO's). However, extensions granted in the form of a DCO may not exempt the source from noncompliance penalties, as per Section 120 of the Clean Air Act.

d. The Allegheny County regulations should make cross references at appropriate places to the inspection, monitoring, and testing provisions contained in Chapter II of the County regulations.

Transportation Element

There are six metropolitan areas in Pennsylvania with populations greater than 200,000 designated as nonattainment areas for ozone: The Philadelphia metropolitan area with approximately five million people, the Pittsburgh metropolitan area with approximately two and one half million people, and the Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre metropolitan areas with populations between 200,000 and 500,000 people. Areas of high traffic density in the central portions of the Philadelphia and Pittsburgh areas are also designated nonattainment for carbon monoxide.

The Clean Air Act requires development and adoption of all reasonably available transportation emission reduction measures to be included as part of the SIP. Submittals addressing the transportation element of the SIP were developed by local agencies and submitted to EPA by the Commonwealth of Pennsylvania. The following presentation of these submittals consists of a description of each plan followed by a review according to the EPA "Checklist for Review of Transportation Portions of 1979 SIP Submissions," October 17, 1978. For the four metropolitan areas of Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre, one combined review is provided.

Description of Philadelphia Area Transportation Element.—The transportation element of the 1979 SIP for Southeastern Pennsylvania was prepared by the Delaware Valley Regional Planning Commission (DVRPC) and submitted by the Commonwealth of Pennsylvania after reasonable notice and public hearing. DVRPC is the lead planning agency certified by the Governor of Pennsylvania under provisions of Section 174 of the Clean Air Act. The plan covers the Pennsylvania Counties of Philadelphia, Chester, Bucks, Delaware, and Montgomery. Similar planning was done by the State of New Jersey for the Counties of Mercer, Burlington, Camden, Gloucester, and Salem. The State of Delaware and the Wilmington Metropolitan Area Planning Coordinating Council performed planning for New Castle County.

The plan demonstrates that neither the carbon monoxide nor ozone NAAQS will be attained until after December 31, 1982. The submittal requests extension of the ozone standard until 1987 and an extension of the carbon monoxide standard until some time between 1983 and 1985. Both of these requests require implementation of an inspection and maintenance program (I/M) for motor vehicles by the Commonwealth of Pennsylvania.

Carbon Monoxide—The carbon monoxide (CO) portion of the plan includes a comprehensive emissions inventory for current and future years. The determination that CO standards cannot be attained by 1982 is based on an evaluation of four continuous monitoring locations and eight hot spot locations. A linear rollback analysis shows that five of the locations will still violate the eight-hour CO standard as of July 1, 1982. The worst location (16th Street & J. F. Kennedy Blvd. in center city Philadelphia), with a design value for CO of 14.7 ppm for an eight-hour period, is not expected to attain the eight-hour CO standard until the spring of 1983, provided an I/M program is implemented. All locations are currently attaining the one-hour CO standard.

The plan does not provide for implementation of any transportation measures, except for inspection and maintenance, to ensure expeditious attainment of the CO standard. However, some CO emission reductions can be expected from implementation of transportation measures designed to expedite attainment of the ozone standard.

The plan contains a reasonable further progress schedule for CO which consists of a linear reduction of CO emissions between 1979 and 1987. Expected emissions for all years between 1979 and 1987 are less than those required by the reasonable further progress schedule.

Ozone—The ozone portion of the plan includes a comprehensive emissions inventory for current and future years. A linear rollback model shows that a 50 percent reduction of 1976 levels of emissions is needed in order to attain the 0.12 ppm ozone standard. A 37

percent reduction of hydrocarbon emissions is possible by 1982. By 1987, a 51 percent reduction of hydrocarbon emissions is possible, allowing approximately a one percent growth of hydrocarbon emissions. An Early Action Program of transportation measures is proposed to expedite attainment of the ozone standard and to allow a margin for growth. The projects contained in the Early Action Program are:

1. Center City Commuter Connection—A project to connect the tracks of the former Reading and Pennsylvania Railroads.

2. Airport Rail Link—A high speed rail line from Penn Center to the Philadelphia International Airport.

3. Carpool/Vanpool Program—A region-wide program sponsored by DVRPC.

4. Commuter Stations/Parking Lots—New and expanded commuter stations and parking lots at various locations within the region.

5. Newtown Branch Electrification—Electrification of the Newtown Branch of the former Reading Railroad line from Bethayres to Newtown with connection to the Trenton Branch.

6. Extension of Route 66 Trolley Line—Extension of the Frankford Avenue trackless trolley (Route 66) on Knights road, Philadelphia (2.3 miles).

The carpool/vanpool program is contained in DVRPC's Unified Planning Work Program. The Center City Commuter Connection, the Airport Rail Link, and the Commuter Stations/Parking Lots are in various stages of construction. Technical studies are being performed for the Newtown Branch Electrification and the Extension of Route 66 Trolley Line. DVRPC believes that implementation of the Early Action Program is possible and would reduce hydrocarbon emissions by about 0.4 %. Approximately 18,740 gallons of gasoline will be saved daily.

The plan contains a reasonable further progress schedule for hydrocarbon emissions which is a linear reduction from 1979 to 1987. Expected emissions for all years between 1979 and 1987 are less than those shown in the schedule. The plan contains a preliminary evaluation of 23 additional measures which will be studied in more detail by 1982.

Other Commitments—On April 26, 1979, the Board of the Delaware Valley Regional Planning Commission adopted the plan and the commitments contained in the plan. Specifically:

1. DVRPC shall undertake a continuing air quality planning program.

2. DVRPC reaffirms its commitment to public transit.

3. DVRPC endorses the Early Action Program.

Public Participation and Local Government Consultation—The DVRPC Board created a Policy Advisory Committee (PAC) to advise DVRPC on policy and technical matters relating to transportation-air quality planning. Voting members on the PAC consisted of all Pennsylvania member governments, the State transportation and environmental agencies, local transit operators and Philadelphia Air Management Services. DVRPC citizen advisory committees were used to obtain public input to the plan.

Modification of Currently approved SIP—The plan proposes to modify the Commuter Carpool matching regulation contained in the currently approved SIP. Other regulations in the currently approved SIP which Pennsylvania proposes for deletion include: management of parking supply, study and establishment of bikeways, various busways in the region, limitation of public parking, employers' provision for mass transit priority incentives, and monitoring of transportation trends.

Other Plan Elements:

1. The plan proposes detailed criteria for assessment of consistency of transportation plans and programs with the SIP.

2. The plan proposes modifications to the transportation planning process to include air quality considerations.

Schedule for Preparation of 1982 SIP—The plan proposes a preliminary schedule for preparation of the 1982 SIP. Details of the process will be developed during the summer of 1979 with an EPA grant under Section 175 of the Clean Air Act. The schedule proposes that the detailed work program be submitted to EPA and the Urban Mass Transportation Administration (UMTA) in October 1979 with planning work beginning in December 1979. Alternative air quality plans are expected to be presented to the public by June 1981 with public hearings in November 1981. An extensive public information and consultation program is proposed as part of the transportation-air quality planning, process.

Review of Philadelphia Area Transportation Element. 1. The submittal covers the Pennsylvania counties of Philadelphia, Delaware, Bucks, Montgomery, and Chester, which comprise the Pennsylvania portion of the Metropolitan Philadelphia Interstate Air Quality Control Region (MPIAQCR). The remainder of the AQCR includes the New Jersey counties of Mercer, Burlington, Camden, Gloucester, and Salem; and New Castle County in Delaware.

The entire MPIAQCR has been designated as nonattainment for ozone; in Pennsylvania, only Philadelphia County is nonattainment for carbon monoxide. Since the five Pennsylvania counties identified above describe the same area used for stationary source planning and for transportaion planning EPA considers the geographic area contained in the submittal appropriate and adequate.

2. The submittal contains adequate emission inventories for carbon monoxide, hydrocarbons and oxides of nitrogen for 1976, 1982, and 1987. The base year for both the stationary source and mobile source portion of the submittal is the same (1976). The submittal contains a detailed description of the methodology used to develop the emissions inventories.

Travel demand estimates are derived from DVRPC transportation models. Travel estimates for 1970, 1977, and 2000 are used as a base and an interpolation procedure is used to develop estimates for 1976, 1982, and 1987. The submittal identifies major highway improvements assumed to be in operation in each year. Emissions from highways not on DVRPC's simulation networks are also included. Growth projections are based on the Regional Development Guide adopted by the DVRPC Board.

Emission factors are based on the EPA document, *Mobile Source Emission Factors*, March 1978. The assumptions and bases for various parameters, e.g. ambient temperature, fraction of cold and hot operations, are stated in the submittal and are reasonable.

3(a). Ozone—the submittal contains a demonstration that the NAAQS for ozone cannot be attained by 1982 even if all reasonable measures are implemented. The demonstration uses an ozone design value of 0.22 ppm with a transport value of 0.08 ppm. a future-year controlled value of 0.12 ppm with 0.06 ppm transport is assumed. Use of the modified linear rollback model indicates a required hydrocarbon emission reduction of 50 percent from 1976 levels, or a reduction of total hydrocarbon emissions from 249,984 tons per year in 1976 to a total of 124,992 tons per year in the attainment year.

The submittal states that 1982 emissions will be 157,280 tons per year which is above the maximum allowable amount for attainment. The 157,280 tons per year reflects reduction of hydrocarbon emissions due to controls on stationary sources, the Federal Motor Vehicle Control Program (FMVCP), I/M, and implementation of reasonably

available transportation control measures; it also reflects growth of stationary and mobile source hydrocarbon emissions.

The submittal contains an Early Action Program which is composed of six transportation control measures which DVRPC has determined to be reasonably available and likely to be implemented by 1982. Implementation of these measures by 1982 is expected to result in a reduction of 560 tons per year of hydrocarbon emissions.

The determination of which transportation measures are reasonably available and implementable by 1982 was made by the Policy Advisory Committee (PAC) on Transportation-Air Quality Planning created by the DVRPC Board. The PAC evaluated transportation measures in DVRPC's Transportation Improvement Program (TIP), paying particular attention to those projects in the Annual Element and those which would reduce hydrocarbon emissions and could be implemented by 1982.

The submittal contains an evaluation of 23 other measures which are not likely to be implemented by 1982, but which can reduce hydrocarbon emissions. These measures will be studied in more detail for possible adoption and submission in 1982. the request for an extension of the ozone attainment date until 1987 is adequately demonstrated in the submittal and is proposed by EPA for approval.

3(b). Carbon Monoxide—The submittal contains a demonstration that the NAAQS for carbon monoxide (CO) cannot be attained by 1982. However, no additional CO measures except I/M are scheduled for implementation by 1982. DVRPC contends that the screening process used to select reasonably available transportation measures would have identified measures resulting in CO reductions as well as hydrocarbon emission reductions. Although CO emission reductions were not quatified in the submittal, DVRPC contends that some CO reductions will occur from implementation of the hydrocarbon reducing measures.

The CO attainment demonstration is based on evaluation of 12 locations in the City of Philadelphia. Four of the locations are continuous monitoring sites; the other eight locations are monitoring sites used during a special CO study conducted by EPA and the City of Philadelphia in December 1976.

The proportional rollback technique was used to estimate the 1982 and 1987 CO concentrations at each location. Projected reductions in emissions for corresponding DVRPC travel analyses zones were used to calculate the proportional reduction in CO concentrations.

The analysis shows that all of the locations are currently attaining the one-hour primary CO standard of 35 ppm. Ten of the twelve sites violated the eight-hour primary CO standard of 9 ppm. By 1982, five of the sites are still expected to violate the eight-hour CO standard.

The submittal requests an extension of the CO attainment date to some time between 1983 and 1985. An evaluation of the worst hot spot (16th Street and J. F. Kennedy Blvd. In Philadelphia) indicates that attainment of the eight-hour primary CO standard is likely to occur early in 1983 with implementation of I/M.

EPA finds the demonstration in support of an attainment date extension for carbon monoxide adequate and proposes an extension of the deadline for attainment of the primary NAAQS for carbon monoxide until June 30, 1983.

4. The Delaware Valley Regional Planning Commission (DVRPC) is certified as the lead agency for transportation-air quality planning for the Pennsylvania counties of Philadelphia, Bucks, Chester, Montgomery, and Delaware. On February 23, 1978, local governments, acting through the DVRPC Board, designated DVRPC as the organization responsible for developing the transportation component of the SIP. The Commonwealth of Pennsylvania confirmed that designation on March 24, 1978.

EPA recognizes DVRPC as the lead planning agency designated under Section 174 of the Clean Air Act and considers DVRPC to be an eligible recipient of urban air quality planning grants under Section 175 of the Clean Air Act.

5(a). Emission Reduction Targets—Initial emission reduction targets have been assigned to mobile and stationary sources. These targets are reflected in the following summary:

Total HC Emissions—Tons Per Year

	1982	1987
Mobile	65,077	29,743
Other	92,203	94,864
Total	157,280	124,607

These targets include growth in motor vehicle usage and stationary sources and reductions due to the FMVCP, I/M, transportation control measures, and controls on stationary sources. The planning schedule provides for a review of emission reduction targets in June 1980. This initial assignment and schedule for review are adequate.

5(b). Consistency/Conformity Determination—The submittal contains the following five criteria which, when fully implemented, should insure consistency/conformity of transportation plans and programs with air quality objectives:

(1) The Integrated Work Program (IWP) should include all planning activities contained in the SIP Transportation Element, and incorporate scheduling indicated in the SIP and/or in the application to UMTA for Section 175 funds.

(2) The Transportation Improvement Program (TIP) should contain all projects required in the SIP Transportation Element (Early Action Program).

(3) The TIP Annual Element (AE) should contain all projects scheduled in the SIP for inclusion in the current AE, or substitute projects that are shown to result in an equivalent emissions reduction.

(4) The TIP Annual Element should result in no significant increase in emission for the period (year) of implementation; that is, for hydrocarbons, no significant increase in the mobile source contribution, measured on a regional basis; and, for carbon monoxide, no increase that leads to a contravention of standards at known or projected hotspots, or an aggravation of the problem at existing hotspots.

(5) The long range plan should show no increase in the regional burden of hydrocarbon emissions after 1987, which results in violation of a regional limit assigned to mobile sources for purposes of meeting and maintaining ozone standards.

5(c). Assignment of Planning Responsibilities—The submittal contains a Memorandum of Understanding executed by DER, DVRPC, and Philadephia AMS establishing formal responsibility for SIP revision activities.

DVRPC is responsible for the mobile source emission inventory and for CO analysis in four suburban counties; AMS is responsible for CO analysis in the City of Philadelphia. DVRPC will coordinate the work of its member governments to evaluate and select control strategies for mobile sources of HC and CO. DER and AMS are also responsible for the emission inventory of stationary sources of HC and NOx and will work with DVRPC and its member governments to select control

strategies for stationary sources in order to reduce ozone levels.

For point and area sources, implementation and enforcement of control measures will be the responsibility of DER and AMS. For mobile sources, I/M will be the responsiblity of the Commonwealth, while control measures designed to reduce vehicle miles of travel (VMT) and increase speeds will be implemented and enforced by local, county, and state agencies, depending on the nature of the project.

EPA considers the assignment of responsibilities appropriate.

5(d). Planning/Programming Process—The submittal contains a description of the 3–C transportation planning process in the Delaware Valley Region. It does not describe the programming process in detail. An understanding of the programming process is important and EPA requests the Commonwealth to provide such a description.

6. The submittal does not contain a detailed description of the process for evaluating alternative plans and measures for the 1982 SIP submittal. A preliminary schedule shows completion of detailed work program by October 1979, initial screening of measures beginning May 1980, and presentation of alternatives to the public by June 1981. The general schedule contained in the submittal is adequate, provided a more detailed schedule and work program is submitted to EPA by October 1979.

7. The submittal contains a commitment to a continuing transportation-air quality planning program. A general schedule is provided with a preliminary analysis of 23 transportation measures. The schedule, however, does not provide specific dates for adoption and implementation of these additional measures. The detailed work program to be submitted to EPA in October 1979 should remedy this deficiency.

8. The submital does not contain a commitment to justify decisions not to adopt difficult, but reasonably available measures. However, no major categories of measures have been rejected to date, and the October 1979 Work Program is expected to remedy this deficiency.

9. The submittal contains a detailed description of the public interest group and elected official consultation and involvement process proposed for transportation-air quality planning. The proposed process is adequate at this time. EPA is developing more detailed guidelines for public participation; the process proposed in this submittal may have to be modified to be consistent with those guidelines. The October 1979 work program submittal should contain a consultation program which is consistent with EPA guidelines.

10. The submittal contains a scope of work for development of a detailed transportation-air quality planning work program to be submitted to EPA in October 1979. DVRPC has received funds from EPA to complete this work program. No additional identification of financial and manpower resources needed to carry out the process has been provided. EPA expects the October 1979 modification to the UPWP to remedy this deficiency.

11. An adequate public hearing on the transportation element of the SIP was held on March 15, 1979, after reasonable notice.

12. A provision for annual reporting of progress made in implementing projects contained in the Early Action Program and on progress made in developing the 1982 SIP submittal is adequate.

13. The Commonwealth of Pennsylvania is committed to implementation of I/M in the Philadelphia area. This commitment, in the form of a Consent Decree, is presented in Appendix 6 of the April 24, 1979 submittal; it is described above under the section entitled *Ozone and Carbon Monoxide, Inspection and Maintenance.*

14. The submittal confirms a commitment by DVRPC ". . . to use available grants for meeting public transportation needs, consistent with regional development policies while emphasizing the importance of raising enough non-federal match to take full advantage of aid for transit improvements, and of the desirability of meeting future transportation needs by public transportation whenever it is feasible to do so." This statement is adequate at this time to satisfy the need for a commitment to establish, expand or improve public transportion measures to meet basic transportation needs. However, EPA is developing additional guidance for meeting this requirement which may require modification of this commitment by the DVRPC Board, and further commitments by the Pennsylvania Department of Transportation (DOT), the Southeastern Pennsylvania Transportation Authority (SEPTA), and the Port Authority Transit Company (PATCO).

15. The UPWP has been modified only to include development of a detailed transportation-air quality planning work program to be submitted to EPA by October 1979. EPA expects that the October 1979 UPWP revision will satisfy the requirements for inclusion of all air quality-related transportation planning tasks in the UPWP.

16(a). Ozone—The submittal contains an acceptable Reasonable Further Progress (RFP) schedule showing allowable annual hydrocarbon emissions. The RFP schedule is linear, combines stationary and mobile sources, and includes growth. Allowable hydrocarbon emission decline from 231,549 tons per year in 1979 to 125 tons per year in 1987.

16(b). Carbon Monoxide—The submittal contains an acceptable RFP schedule for CO which shows CO concentrations at the highest hotspot (16th Street & J.F. Kennedy Blvd. In Philadelphia). The schedule shows attainment of the CO standard in 1983 with implementation of an I/M program.

17. The submittal contains an evaluation of energy impacts of the measures proposed for implementation by 1982. There is no evaluation of the health, welfare, economic, and social effects of the plan. The submittal does not identify analytical methods for evaluating such impacts, nor is there public comment on such methods. The submittal is deficient with regard to this requirement.

The submittal contains six projects which constitute an Early Action Program for expediting the reduction of hydrocarbon emissions. These projects are described as follows:

Project discription	Cost	Date of implementation	Nature of Commitment	Responsible agency
1. *Center City Commuter Connection*—A project to connect the tracks of the former Reading & Pennsylvania Railroads (TIP No. 406).	$307,467,000	Jan. 31, 1984	Under construction in 1978. Letter from City of Philadelphia stating intent to begin service by January 31, 1984.	City of Philadelphia
2. *Airport Rail Link*—A high speed rail link from Penn Center to the Philadelphia International Airport (TIP No. 405).	72,775,000	July 1982	Under construction in 1975. Letter from City of Philadelphia stating intent to begin service by July 1982.	City of Philadelphia
3. *Carpool/Vanpool Program*—A regionwide program sponsored by DVRPC.	180,000 (year)	ongoing	Program funded in DVRPC's UPWP	DVRPC
4. *Commuter Stations/Parking Lots*—(TIP No. 105)	9,400,000	1982	Some projects under construction in 1979. Letter from SEPTA stating schedule for completion of design work and construction.	SEPTA
5. *Newtown Branch Electrification*—Electrification of Newtown Branch of Reading RR from Bethayres to Newtown with connection to Trenton Branch (TIP No. 111).	3,600,000	1982	Letter from SEPTA stating intent to carry out project. Indication of financial support from Bucks & Montgomery Counties. Environmental assessment being prepared. SEPTA letter states intent to file grant application to UMTA.	SEPTA
6. *Extension of Route 66 Trolley*—Extension of Frankford Ave. trackless trolley (Route 66) on Knights Road, Philadelphia (2.3 mi.) (TIP No. 125).	519,000	July 1982	Letter from SEPTA stating intent to begin service by July 1982	City of Philadelphia

The Regional Administrator believes that commitments for the first four projects are adequate and proposes approval of these projects. The last two projects (Newtown Branch Electrification and Extension of Route 66 Trolley Line) need firmer commitments before they can be approved as part of the SIP. The nature of these commitments should be in the form of schedules for commitment of required State and local funds, for submission of funding applications to the appropriate federal agencies, and for the beginning of construction. These two projects are reasonably available measures and should be part of the SIP.

19. The submittal proposes to modify or delete a number of measures currently in the approved SIP. These measures are summarized below.

Proposed Changes to Currently Approved SIP

40 CFR section	Title	SIP[1]
52.2040	Management of Parking Supply	Delete.
52.2041	Study and Establishment of Bikeways	Modify.
52.2043	Commuter Carpool Matching	Modify.
52.2044	Pennsylvania-New Jersey Busways	Delete.
52.2045	Roosevelt Boulevard Busway between Grant Avenue and Hunting Park	Delete.
52.2046	Central Business District Bus and Trolley Ways and Parking Restrictions	Delete.
52.2047	Exclusive busways in Philadelphia outside the CBD	Delete.
52.2048	Exclusive buslanes for Philadelphia Suburbs and outlying areas	Delete.
52.2061	Regulation for limitation of Public Parking	Delete.
52.2062	Employer's provision for mass transit priority incentives	Delete.
52.2063	Monitoring Transporation Trends	Delete.

[1] Recommended action for 1979.

Summary—The submittal substantially meets all requirements for approval. The major outstanding issue is the commitment to implement the Newtown Branch Electrification and the Extension of Route 66 Trolley Line. The Regional Administrator believes that these projects are reasonably available and should be part of the SIP. The Regional Administratore is looking to the October 1979 Work program submission to remedy other deficiences identified in this proposal.

Description of Pittsburgh Area Transportation Element. The transportation element of the 1979 SIP for Southwestern Pennsylvania was prepared by the Southwestern Pennsylvania Regional Planning Commission (SPRPC) and submitted by the Commonwealth of Pennsylvania after reasonable notice and public hearing. SPRPC is the lead planning agency certified by the Governor of Pennsylvania under provisions of Section 174 of the Clean Air Act. The plan covers the Pennsylvania Counties of Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland.

The submittal contains a demonstration that the carbon monoxide and ozone NAAQS will not be attained until after December 31, 1982, and requests an extension of the attainment date for carbon monoxide and ozone NAAQS.

Carbon Monoxide—The carbon monoxide (CO) portion of the plan includes an emissions inventory for current and future years. The determination that CO NAAQS cannot be attained until after 1982 is based on an evaluation of two CO monitors in the Pittsburgh Golden Triangle. The design value for CO is 21.4 ppm for an eight-hour period. A linear rollback analysis using Golden Triangle CO emissions shows that attainment of the CO NAAQS is not likely until late in 1985, provided that an I/M program is implemented.

The plan does not provide for implementation of any transportation measures, except I/M, to expedite attainment of the CO NAAQS. However, some CO emission reductions can be expected from transportation measures which will be implemented to expedite attainment of the ozone NAAQS.

The plan does not contain a Reasonable Further Progress (RFP) schedule for CO. However, EPA is proposing an RFP schedule based on data contained in the plan. The proposed schedule requires that CO emissions in the Golden Triangle be reduced by 698.6 tons per year between 1979 and 1982, and by 347 tons per year between 1983 and 1985. Such a schedule will result in attainment by the end of 1985.

Ozone—The ozone portion of the plan includes a comprehensive emissions inventory for current and future years. A linear rollback model shows that a 48.6 percent reduction in 1976 hydrocarbon emissions is needed to attain the 0.12 ppm NAAQS for ozone. Emission projections to 1987, which include an allowance for growth, show that 1987 emissions will exceed allowable HC emissions by approximately 0.4%. This shortfall will be made up by transportation measures.

The plan contains transportation measures designed to expedite attainment of the ozone standard and to allow a margin for growth. The transportation measures contained in the plan are:

1. Coraopolis Joint Rail/Bus Park-n-Ride Lot—A park and ride lot north of Coraopolis serving Transportation Route (TR) 51 and the Pittsburgh and Lake Erie (P&LE) Commuter Rail Corridor.

2. McKeesport Commuter Rail Station/Park-n-Ride Lot—Transportation terminal at McKeesport; improved park and ride lots at Versailles, Portvue, and Braddock.

3. Port Authority Transit (PAT) Park-n-Ride—A non-capital program whereby PAT will establish two or three park and ride lots per year through agreements with shopping centers, churches, and municipalities.

4. North Hills Park-n-Ride Lot—The exact location of this project is currently under study.

5. East Busway—An exclusive right-of-way facility between the Pittsburgh Central Business District (CBD) and Wilkinsburg.

6. Bike-n-Ride Lockers—Bike lockers provided at various locations to encourage bike access to PAT facilities.

7. Area-wide Carpool/Vanpool Program—Ongoing service to encourage and assist major employer involvement in carpool or vanpool program.

The carpool/vanpool program is contained in SPRPC's Unified Planning Work Program. PAT has committed to establish two or three new park and ride per year. Funding commitments are firm for the McKeesport Commuter Rail Station Park-n-Ride Lot, the East Busway, and the Bike-n-Ride Lockers. However, action by the Pennsylvania Transit Assistance Authority is necessary before funding commitments are firm for the Coraopolis Joint Rail/Bus Park-n-Ride Lot and the North Hills Park-n-Ride Lot.

The plan contains an RFP schedule for hydrocarbon emissions and an initial screening of 20 transportation measures which will be considered for submission as part of the 1982 SIP.

Other Commitments—On October 30, 1978, the Southwestern Pennsylvania

Regional Planning Commission met and made the following commitments:

1. Support implementation of all reasonably available control measures by 1982.

2. Continue to place emphasis upon the utilization of public transit and to remain alert for new opportunities to use transit as a tool for achieving air quality objectives.

3. Investigate transportation control measures and consider for implementation those which are found feasible. SPRPC will furnish staff, cooperate with air quality agencies, and establish technical and citizen advisory committees.

Public Participation and Local Government Consultation—To develop the 1979 SIP, SPRPC's Ad Hoc Air Quality Advisory Committee coordinated its efforts with the Transportation Planning Committee. The two committees met jointly on a monthly basis between June and September 1978. Membership of the joint committee includes SPRPC member governments, PAT, Pennsylvania DOT, FHWA, UMTA, EPA, DER, and the Allegheny County Bureau of Air Pollution Control.

SPRPC also established an Interim Public Interest Advisory Committee to advise SPRPC during preparation of the 1979 SIP revision. Membership included civic, environmental, and special interests. The committee met between July and September 1978 and was invited to attend joint meetings of the Transportation Planning Committee and the Ad Hoc Air Quality Advisory Committee.

Schedule for Preparation of 1982 SIP—The plan includes a preliminary schedule for preparation of the 1982 SIP. A detailed schedule will be developed and submitted to EPA by September 30, 1979, utilizing part of a Section 175 grant. The preliminary schedule proposes completion of an analysis of alternative transportation control measures by September 30, 1980 and final plan adoption by SPRPC by December 31, 1981. An extensive public information and consultation program is planned as part of the transportation-air quality planning process.

Review of Pittsburgh Area Transportation Element. 1. The submittal covers Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland Counties. These six counties are nonattainment for ozone; only Allegheny County is nonattainment for carbon monoxide. This geographic area is consistent with that used for stationary source planning and transportation planning. The submittal is adequate with regard to its geographic coverage.

2. The submittal contains emission inventories for carbon monoxide, hydrocarbons and oxides of nitrogen for 1976, 1979, 1982 and 1987. The base year (1976) is the same as that used for the stationary source portion of the submittal. The submittal describes the methodology used to develop the inventories. Emission factors are based on the EPA document, "Mobile Source Emission Factors," March 1978. However, certain assumptions, e.g. ambient temperature, fraction of cold and hot operation, are not presented. Although EPA believes that the inventory requirement is adequately met, SPRPC is requested to submit additional documentation on parameters used to develop the emission factors.

3(a). Ozone—The submittal contains a demonstration that the NAAQS for ozone cannot be attained by 1982 even if all reasonably available measures are implemented. The demonstration combines mobile and stationary source hydrocarbon emissions and uses an ozone design value of 0.220 ppm. Reasonable assumptions are made about present and future transport. A linear rollback model shows that a 48.6 percent reduction in 1976 hydrocarbon emissions is needed to attain the 0.12 ozone NAAQS. Maximum allowable hydrocarbon emissions are 102,762 tons per year. The submittal shows that 1982 emissions should be 130,392 tons per year. This estimate includes reductions due to the Federal Motor Vehicle Emission Control Program, I/M, and stationary source controls, and accounts for expected growth in stationary sources and VMT. Emission reductions from implementation of reasonably available transportation control measures are 462 tons per year. In 1982 a shortfall of 27,168 tons per year will remain, which cannot be made up through application of reasonably available control measures.

The determination of which transportation measures are reasonably available for implementation by 1982 was made in consultation with Federal, State, local transportation and environmental agencies, and a public interest advisory committee which contained civic, environmental and special interests. A set of criteria was developed for selection of reasonably available control measures; the committees evaluated 20 projects, finally deciding on seven projects which reduce emissions and could be implemented by 1982. Measures which were not selected for implementation by 1982 will be considered for implementation as part of the process of developing the 1982 SIP submittal.

The Regional Administrator believes that the submittal adequately demonstrates the need for an extension of the ozone attainment deadline beyond 1982 and proposes to extend the deadline to December 31, 1987.

3(b). Carbon Monoxide—The submittal contains a demonstration that the NAAQS for carbon monoxide (CO) cannot be attained by 1982. However, no additional CO measures, except I/M, are scheduled for implementation by 1982. SPRPC believes that the transportation measures scheduled to reduce hydrocarbon emissions will also reduce CO emissions. The impact of these measures in reducing CO levels was not quantified in the submittal.

The CO demonstration is based on an evaluation of two CO monitors in the Golden Triangle. An eight-hour CO level of 21.4 ppm is used as the design value. A linear rollback model shows that a 58 percent reduction in 1977 CO emissions in the Golden Triangle is required to meet the eight-hour CO standard of 9 ppm. Allowable CO emissions will be exceeded by about 29 percent in 1982. Linear interpolation between 1982 and 1987 shows that the standard can be attained by 1985, with implementation of an I/M program.

The Regional Administrator believes that the submittal adequately demonstrates the need for an extension of the CO attainment deadline beyond 1982 and proposes to approve an extension of the attainment deadline for CO to December 31, 1985.

4. SPRPC has been certified as the lead agency for nonattainment planning for the Pennsylvania Counties of Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland. On January 30, 1978, representatives of the local governments, acting through the SPRPC, initiated an action to designate SPRPC as the lead planning agency. On March 6, 1978, the Commonwealth of Pennsylvania certified that designation. SPRPC meets all requirements for certification as the lead planning agency under Section 174 of the Clean Air Act.

5(a). Emission Reduction Targets—The submittal does not establish separate emission reduction targets for mobile and stationary sources. The submittal states that an agreement was reached among representatives of participating air quality planning agencies that no attempt should be made in the 1979 SIP submittal to split HC emission reductions between mobile and stationary sources. SPRPC expects, however, to define equitable emission reduction targets as the planning process progresses and better information is developed on the effectiveness of stationary and mobile source control measures.

5(b). Consistency/Conformity Determination—The submittal does not address the process for determination of consistency/conformity of transportation plans and programs with air quality plans.

5(c). Assignment of Planning Responsibilities—The submittal contains an adequate assignment of responsibilities among the cognizant agencies: SPRPC develops motor vehicle emission inventory data, air quality analysis for CO, and control strategies for motor vehicles; DER develops emissions inventory for point and area sources, air quality analysis for ozone, and control strategies for point and area sources; Allegheny County Bureau of Air Pollution Control performs the same activities as DER within Allegheny County only; Pennsylvania DOT develops strategies relating to reduction of vehicle emission, e.g. I/M.

5(d). Transportation Programming Process—The submittal contains a detailed description of the programming process for transit projects. All Federal, State, and local responsibilities and decision points are clearly identified. The Regional Administrator believes that documentation of this process by SPRPC significantly adds to the understanding of the transportation project implementation process.

6. The submittal contains an acceptable schedule for analysis of alternatives and a detailed description of how the process will be carried out. Technical details of the process will be presented in the work program to be submitted in September 1979. The schedule shows the analysis of alternatives starting September 1979 and being completed in September 1980.

7. The submittal contains a commitment to study additional transportation control measures with adoption of appropriate measures by December 31, 1987. Schedule for the study of individual measures are not contained in the submittal. However, a good description of the study process is included and the detailed work program to be submitted in September 1979 should remedy this deficiency.

8. The submittal does not contain a commitment to justify decisions not to adopt difficult, but reasonably available, measures. However, no major categories of measures have been rejected to date, and the September 1979 work program is expected to remedy this deficiency.

9. The submittal contains a description of the consultation process used to develop the 1979 plan and a general description of the process proposed for 1982 plan development. This is acceptable at this time. EPA is developing more detailed guidelines for public participation; the process proposed in this submittal may have to be modified to be consistent with those guidelines. The September 1979 work program submittal should contain a consultation program which is consistent with EPA guidelines.

10. The submittal contains a general work program for development of the 1982 SIP submittal, but no estimate of financial and manpower resources needed to carry out the process. EPA expects that the September 1979 modification to the UPWP will remedy this deficiency.

11. An adequate public hearing on the transportation element of the SIP was held on December 18, 1978, after reasonable notice.

12. Although the submittal does not discuss progress reports in detail, the submittal states SPRPC's intent to meet EPA reporting requirements. The EPA believes that detailed reporting procedures can be developed as part of the work program to be submitted in September 1979.

13. The Commonwealth of Pennsylvania is committed to implementation of I/M in the Pittsburgh area. This commitment, in the form of a Consent Decree, is presented in Appendix 6 of the April 24, 1979 submittal.

14. The submittal contains a commitment by SPRPC to place emphasis on mass transit and to remain alert to opportunities to use transit as a tool to meet air quality objectives. This commitment is adequate at this time. However, EPA is developing additional guidance for meeting this requirement which may necessitate modification of this commitment by the SPRPC Board, and further commitments by the Pennsylvania DOT and PAT.

15. the UPWP has been modified to contain initial air quality planning tasks. The submittal contains a schedule showing that a more extensive UPWP revision will be made by September 30, 1979. The EPA expects that the September 1979 UPWP revision will satisfy the requirements for inclusion of all air quality-related transportation planning tasks in the UPWP.

16(a). Ozone—The submittal contains an acceptable RFP schedule showing allowable annual hydrocarbon emissions and requiring an annual reduction of 9892 tons per year. The RFP schedule combines stationary and mobile source emissions and accounts for growth.

16(b). Carbon Monoxide—The submittal does not contain a RFP schedule for CO emissions. However, EPA is proposing a schedule based on information contained in the submittal. It demonstrates that a 58 percent reduction in 1977 emissions in the Golden Triangle must occur in order to attain the CO standard. Based on the CO emission inventory information for 1977, 1982 and 1987 presented in the submittal, EPA proposes an RFP schedule which reduces Golden Triangle CO emissions by 698.6 tons/year between 1979 and 1982, and by 347 tons/year between 1983 and 1985. Adoption of this schedule is expected to result in attainment of the CO standard by 1985 and will satisfy the RFP requirement.

17. The submittal contains an evaluation of the air quality economic, social, environmental, and energy impacts of measures scheduled for implementation by 1982. It does not contain a preliminary identification of the methods for evaluating these impacts, or public comment on such methods. However, the September 1979 work program is expected to remedy this deficiency.

18. The submittal contains seven projects which reduce hydrocarbon emissions and expedite attainment of the ozone standard. These projects are also expected to reduce CO emissions. The projects are described as follows:

Project	Cost	Date of implementation	Nature of commitment	Responsible agency
1. Coraopolis Joint Rail/Bus Park-n-Ride Lot	$300,000	1979	All local funds committed. Awaiting action by Pennsylvania Transit Assistance Authority.	PAT
2. McKeesport Commuter Rail Station/Park-n-Ride Lot	$1,000,000	1980	Fully committed State & local funds. Construction schedule to begin in 1979. Application to UMTA for construction funds must still be made.	PAT
3. PAT Park-n-Ride On-going Program	Noncapital	Ongoing	PAT committee to establish 2 to 3 new lots per year through agreements with shopping centers, churches, and municipalities.	PAT
4. North Hills Park-n-Ride Lot	$300,000	1979	All local funds committed. Awaiting action by Pennsylvania Transit Assistance Authority.	PAT
5. East Busway	$109,800,000	1982	All Federal, State and local funds committed. Presently under construction.	PAT
6. Bike-n-Ride Lockers	$60,000	1979	Part of PAT's Capital Improvement Program; funds fully committed	PAT
7. SPRPC ongoing Rideshare Program—25 vans/year 1,700 carpools/year.	$44,300 (Fiscal year 1978–79).	Ongoing	Funded in fiscal year 1978–79 UPWP. SPRPC to attempt to establish SPRPC 25 new vanpools per year and 1,700 new carpools per year.	

The Regional Administrator believes that commitments are adequate for all projects except the Coraopolis Joint Rail/Bus Park-n-Ride Lot and the North Hills Park-n-Ride Lot. A date for action by the Pennsylvania Transit Assistance Authority is needed. These projects are reasonably available and should be part of the SIP revision.

19. No measures are proposed for deletion from the currently approved SIP revision.

Summary—The Pittsburgh Area Transportation Element meets many of the requirement for approval. However, there are some outstanding issues:

1. A date for action by the Pennsylvania Transit Assistance Authority is needed before the Coraopolis and North Hills Park-n-Ride Lots can be approved. The Regional Administrator believes that these projects are reasonably available and should be part of the SIP.

2. A criteria and process for determining consistency/conformity of transportation plans and programs with air quality plans should be developed in accordance with fothcoming DOT and EPA guidance.

3. Documentation of parameters used to develop mobile source emission factors, e.g. ambient temperature, percent hot and cold operation, is needed.

4. The September 1979 work program should be used to remedy the other deficiencies identified in this proposal.

Description of Allentown-Bethlehem-Easton Area Transportation Element. The Lehigh-Northampton Joint Planning Commission (JPC) developed the transportation element of the proposed ozone SIP revision for the Allentown-Bethlehem-Easton (A-B-E) area. The JPC designated itself as lead agency after suggestions by DER, the Pennsylvania DOT, and the Coordinating Committee of the Lehigh Valley Transportation Study (LVTS), which is the certified Metropolitan Planning Organization (MPO); the Governor concurred on June 22, 1978. The JPC will be working in cooperation with the Lehigh Valley Transportation Study; the City Planning Commissions of Allentown, Bethlehem, and Easton; and the Warren County Planning Board.

The geographic area covered by the submittal includes the cities of Allentown, Bethlehem, and Easton, and the Counties of Lehigh and Northampton.

The final transportation element for the A-B-E area was officially submitted by the Governor on June 7, 1979, and has been adopted by the JPC and the LVTS. The ozone design value for the area is 0.201 ppm, necessitating a 40.3 percent reduction of hydrocarbon emissions using the straight linear rollback method. A reasonable further progress schedule included in the plan indicates that the ozone standard of 0.12 ppm should be attained by 1984, including a margin for growth of up to 1000 tons per year in hydrocarbon emissions from new sources.

The emissions reduction measures committed to by the JPC and the MPO for implementation by 1982 are intersection improvements, corridor improvement, safety updates and realignments, the Basin Street project, growth in bicycling, and expansion and improvement of public transportation measures.

An I/M program will be implemented in the A-B-E area by the Pennsylvania DOT. Control measures listed for possible future study include establishment of ridesharing programs, improvement of bicycling routes and facilities, raising downtown parking fees, parking restrictions, auto-free zones, road tolls, increasing gas taxes, minor road improvements, staggered or flexible work hours, exclusive bus or carpool lanes, bus service improvements, park and ride lots, reduction of transit fares, rapid transit, I/M, cleaner fleet vehicle engines and fuels, a program to reduce cold-start emissions from vehicles, control of extended idling, and temporary controls during air pollution episodes. The study and implementation of some of these measures is included as a work task in a planning work program for FY 1980–1981. Five control measures (auto-free zones, road tolls, lower transit fares, rapid transit system, and bicycling routes and storage facilities) were rejected. Although some of these rejections may be justifiable, an adequate justification was not included.

A public hearing to present the transportation element was held on March 26, 1979, and summaries of public comment are included in the submittal. Citizen input was also incorporated through open meetings and mailings by both the LVTS and the JPC.

Description of Harrisburg Area Transportation Element. The lead agency responsible for developing the transportation element of the SIP is the Tri-County Regional Planning Commission (TCRPC). This designation was certified by the Governor on June 22, 1978, after a consultation process involving the Commonwealth, County, and municipal officials. The MPO, which is the Coordinating Committee of the Harrisburg Area Transportation Study (HATS), is unable to receive or disburse funds and has inadequate staff for plan development. Therefore, the TCRPC

requested designation as the Section 174 lead agency. Close coordination between the MPO and TCRPC has been maintained, however.

The City of Harrisburg and the urbanized portions of Cumberland, Dauphin, Perry, and York Counties comprise the geographic area covered by this submittal. The ozone design value for this area is 0.167 ppm as reported in the Pennsylvania ozone submittal. Using a straight linear rollback, a 28.1 percent reduction of hydrocarbon emissions is needed to meet the 0.12 ppm standard; this reduction is expected to occur by 1982. Based on this projection of attainment, and inspection/maintenance program will not be required for the Harrisburg area. However, the TCRPC has endorsed the following transportation control measures to ensure attainment as expeditiously as practicable: carpool matching, fringe parking, bicycle lane and storage facilities, traffic flow improvement, transit service improvements, and increasing transit managment efficiency. Control measures listed for future study include those listed in Section 108(f) of the Clean Air Act.

Public participation was included in this process through public information mailings and the Citizen's Advisory Committee of HATS. A public hearing was held on February 28, 1979, and a summary of public comments is included in the final submittal. The transportation element was adopted by the TCRPC and the MPO and was submitted by the Commonwealth on June 13, 1979.

Description of Scranton Area Transportation Element. The Lackawanna County Regional Planning Commission (LCRPC) as the Section 174 lead agency with responsibilities for coordinating the preparation of the transportation element of the implementation plan revisions for the Scranton area. The designation of the LCRPC as lead agency occurred after a consultation process with local and State government agencies which determined that the MPO, which is the Lackawanna-Luzerne Transportation Study Coordinating Committee does not have the authority to receive federal funds or the staff to develop a plan. The LCRPC therefore requested designation, and the Governor concurred on June 7, 1978.

The geographic area covered by the submittal includes the City of Scranton and the surrounding urbanized areas of Lackawanna County. The ozone air quality level for Lackawanna and Luzerne Counties is currently exceeding the NAAQS of 0.12 ppm. An ozone design value of 0.188 ppm was determined by DER as the appropriate value for this area. A total of 19,325 tons per year of hydrocarbon emissions was reported from all mobile and stationary sources. Using straight linear rollback, a 34.8 percent reduction in ozone levels is projected to occur by 1982, with an additional 1.4 percent reduction needed for attainment of the ozone standard. The submittal shows attainment by 1984. The LCRPC endorses an I/M program which is committed for implementation by the Pennsylvania DOT. In addition, it supports the following control measures for mobile source emission reductions: a bike route plan, park and ride facilities, and transit improvements. Control measures identified for future study include all those in Section 108(f) of the Clean Air Act. The City of Scranton and the Lackawanna County Council of Governments endorse this plan and are committed to transit and transportation measures which will result in improved air quality.

Provisions for public interest group and local official involvement are included in the planning process through the activities the Citizens Advisory Committee, the Local Governments Advisory Committee, local service agencies, and other concerned citizens. A public hearing was held on February 13, 1979, and a 30-day public comment period followed. The proposed revision was submitted by the Governor on June 7, 1979.

Description of the Wilkes-Barre Area Transportation Element. The tranportation element for the Wilkes-Barre urbanized area was developed by the Luzerne County Planning Commission (LCPC). The LCPC designated itself as the Section 174 lead agency after a consultation process among State and local government agencies determined that the MPO, which is the Lackawanna-Luzerne Tranportation Study Coordinating Committee, could not receive Federal funds and did not have the staff to develop an air quality-transportation plan. LCPC's self-designation was suggested by the Pennsylvania Departments of Environmental Resources and Transportation; the Governor concurred with this designation on June 9, 1978.

The submittal covers the geographic areas of the City of Wilkes-Barre and the surrounding urbanized region of Luzerne County. The ozone design value was determined by DER to be 0.188 ppm, requiring a hydrocarbon emission reduction of 36.2 percent using the linear rollback method. The total hydrocarbon emissions for the County were determined to be 21,567 tons per year. A reasonable further progress schedule which is included in the submittal indicates that in 1982 the 0.12 ppm standard will be exceeded by approximately 2.53 percent. Attainment of the ozone standard is projected to occur in 1984. The plan revision includes commitments for the following control measures: transit usage, land use plan, voluntary bicycling activity, bikeway system, bus/carpool program, and a park and ride program. The LCPC endorses implementation of an inspection/maintenance program by the Pennsylvania DOT in the Wilkes-Barre area. Transportation control measures listed for future study include in addition to the 18 measures recommended in Section 108(f) of the Clean Air Act, a parking policy, municipal coordination in relieving traffic congestion, and the implementation of a land use plan encouraging less use of the automobile.

Citizen and local government participation was included through the Local Governments Advisory Committee, public mailings and workshops, local media coverage, and a public hearing held on April 24, 1979. The plan was adopted by the LCPC and by the MPO on June 4, 1979, and was submitted by the Commonwealth on June 8, 1979.

Review of Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre Area Transportation Elements. The following section contains a combined review of the Transportation Elements for the Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre areas:

1. The geographic areas covered by transportation control measures and the definitions of nonattatinment areas summarized in the area profiles are adequate.

2. Although a complete inventory is not included in each transportation element, an accurate, comprehensive, and current emissions inventory for all areas is provided in the Pennsylvania ozone submittal of April 24, 1979.

3. Estimation of emission reductions needed to demonstrate attainment and reasonable further progress were calculated using the straight linear rollback method. Since ozone design values are not reported in the transportation elements, ozone design values and emission reduction estimates reported in the April 24, 1979, Pennsylvania ozone submittal are used in this evaluation. The Harrisburg projections indicate attainment of the

standard by 1982, whicle A-B-E, Scranton, and Wilkes-Barre will require an extension of two years.

4. Designations and certifications of Section 174 lead agencies identified in the description of each area's transportation element are adequate. Exemplary cooperation was displayed by all agencies involved in this process.

5. Identification of agency tasks and responsibilities is adequate. The division of responsibilities among State and local agencies involved in the air quality transportation process were mutually agreed upon and are adequately described. Emission reduction estimates (mobile/stationary source splits) were discussed in each plan, and are to be developed for the 1982 submittals.

The process of determining the consistency/conformity of transportation projects with air quality objectives should be integrated into the planning process for future consideration. New procedures for integration of this consistency/conformity determination with the planning process were not identified. The project programming processes were not sufficiently detailed for these areas. Descriptions should be provided which include the steps in the project implementation process clearly identifying the responsible agency, the time required for each step, and the relationships among the different steps of the programming process. The Scranton submittal's description of the Bike Route Plan (Procedures and Funding) fulfills the requirement of detailing the agency involved in each step, but not the time required for each step or the current status of the project.

6. Schedules for comprehensive analysis of alternatives and demonstrations that analyses are underway are lacking in all four plans. These schedules can be submitted with the 1979–1980 UPWP and should include dates of initiation of studies, estimated completion dates, the agency performing the analyses and details of funding for the analyses.

7. Commitments to study additional measures are included in all four submittals with lists of these measures. However, schedules for the adoption of reasonably available measures are lacking. These can be submitted with the 1979–1980 UPWP and should include initiation dates, funding details, and identification of the responsible agency or agencies.

8. Commitments to justify decisions not to adopt difficult, but reasonably available, measures are included in the Wilkes-Barre submittal, but are not included in the A-B-E, Harrisburg, and Scranton submittals.

9. The process for public, interest group, and elected official consultation and involvement in the transportation-air quality process is discussed in each submittal. The 1982 submittal will need to be responsive to forthcoming EPA guidelines on public and local official participation.

10. The identification of estimated financial and manpower resources necessary to develop the transportation elements is adequate, but more detail should be provided in the identification of funds and manpower resources required to continue the transportation-air quality planning and implementation process.

11. The Transportation Elements of the proposed SIP revision were adopted by the appropriate lead agencies and submitted by the State after reasonable notice and public hearing.

12. Provisions for progress reporting throughout the planning and implementation period are included for Harrisburg, Scranton, and Wilkes-Barre. The provision for progress reporting in the A-B-E submittal is not clear and should be clarified in the 1979–1980 UPWP.

13. The Lackawanna County Regional Planning Commission and the Luzerne County Planning Commission endorse implementation of I/M by the Pennsylvania DOT. The Harrisburg area does not presently need I/M for attainment of the standard by 1982. The commitment to implement I/M in the A-B-E, Scranton, and Wilkes-Barre areas is contained in the June 7, 1979 letter from the Governor of Pennsylvania.

14. The four lead agencies, in conjunction with the local transit agencies, have committed to improve public transit with the use of all available funds.

15. Air quality-related transportation planning tasks to be included in the UPWP are outlined in the submittals.

16. Emission reduction estimates for adopted measures and/or packages of measures were included in each submittal. These estimates are for control measures (excluding I/M) implementable by 1982 and are listed in the area profiles. The estimate of percent reductions for the four areas are: A–B–E, 0.4 percent; Harrisburg, 0.25 percent; Scranton, 0.13 percent, and Wilkes-Barre, 0.07 percent.

17. Evaluation of the air quality, economic, social, environmental, and energy effects of the plan provisions were identified in a brief matrix from in the Harrisburg and Wilkes-Barre submittals and in brief written form in the A-B-E submittal; only a commitment to perform this analysis was included in the Scranton submittal.

18. Information on projects identified as reducing ozone levels is necessary to determine the likelihood of implementation of these measures by 1982. Some of this information is included in the submittals, but all four submittals are lacking information on some of their projects for one or more information categories: implementation dates, type and status of commitments including a schedule for obtaining remaining commitments necessary to insure implementation, and agency or agencies involved in implementing or continuing the operation of the project. This information is being requested from the lead agencies to assist EPA in making its determination on the approvability of the proposed SIP.

General Comments

Permit Program for New or Modified Sources. On June 12, 1979, the Commonwealth of Pennsylvania submitted proposed rules and regulations titled "Special Permit Requirements for Sources Locating in or Significantly Impacting Non-attainment Areas" (Title 25, Part I, Subpart C, Article III, Chapter 127, Subchapter C of the Pennsylvania Code) to EPA. These regulations are a proposed revision to the Pennsylvania SIP required by Section 173 of the Clean Air Act. Public hearings were conducted on these regulations on May 2, 3, and 4, 1979 and the Pennsylvania Environmental Quality Board approved them on June 12, 1979. EPA has noted several areas of concern in the regulations and solicits public comments.

The Special Permit regulations apply to new or modified sources with potential emissions equal to or greater than 100 tons per year and with allowable emissions greater than fifty tons per year located in or significantly impacting areas designated as nonattainment for particulate matter and sulfur dioxide or located in any of twenty-one non-rural counties designated as nonattainment for ozone. The proposed regulation requires that all emissions resulting from such a new source or major modification to an existing source be subject to stringent review. Sources subject to this regulation must comply with the Lowest Achievable Emission Rate (LAER). The regulations requires certification that all facilities owned or operated by the applicant and located in Pennsylvania are either in compliance or on an approved schedule for compliance with the SIP. Emission offset ratios ranging

from 1.1:1 to 5:1 are also required, depending on the type of pollutant and whether primary or secondary standards are being violated in the nonattainment area. The regulation also provides for the banking of emission offsets where offsets either exceed requirements, result from source shutdown, or result from voluntary implementation of improved control techniques. Emissions can be banked for a maximum of five years. The proposed rules provide for reasonable progress toward attainment of applicable NAAQS's and are consistent with the requirements of Section 173 of the Clean Air Act.

Based on EPA's review to date, the following concerns are noted:

1. The proposed regulations exempt sources reactivated after being out of operation for one year or more from having to meet LAER requirements and certification of state-wide compliance by the company. EPA does not agree with this open-ended exemption and believes that a specific time limit within which the exemption would be allowed should be defined.

2. The proposed regulations do not address major sources of carbon monoxide emissions, possibly preventing such major new or modified sources with carbon monoxide emissions from locating in carbon monoxide nonattainment areas.

State Commitments and Resources to Implement and Enforce Adopted Measures. The Commonwealth of Pennsylvania has made an adequate commitment of financial and manpower resources to implement the TSP plan and the VOC regulations.

State Commitments to Comply With Schedules. EPA will be issuing additional control technology guidance (CTG) documents for the control of stationary source categories of VOC's. The Commonwealth of Pennsylvania has made an adequate commitment to develop regulations for all appropriate stationary source categories of VOC, subsequent to EPA's issuance of these guidance documents.

In addition, the Commonwealth of Pennsylvania provides an adequate commitment to perform a detailed study of non-traditional particulate emissions and to adopt and implement appropriate fugitive emission regulations.

Public Involvement and Analysis of Effects. The Clean Air Act requires a SIP to include evidence of involvement and consultation with the public, local government, legislature, and all other interested parties. Pennsylvania has satisfied this requirement through a series of public mailings, public hearings, presentations, and consultations with industrial representatives.

Also required in the SIP is an analysis of the energy, economic, environmental and social impacts of the plan. Pennsylvania's economic analysis of effects of regulations is sufficient for the 1979 SIP submittal, however, a more detailed analysis of effects of regulations and measures in future submittals will be required.

Summary of Major Issues

1. Both Pennsylvania's and Allegheny County's regulations for cutback asphalt paving are not consistent with EPA's guidance on RACT.

2. Revisions of major portions of the Pennsylvania SIP covering Allegheny County and certain major stationary sources have not yet been officially submitted to EPA.

Conclusion

The measures proposed today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations of any source will remain applicable and enforceable to prevent a source from operating without control or under less stringent controls, while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the regulations. In these situations, the State may exempt sources from compliance with the pre-existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions.

Based on the information presented in the various submittals and EPA's review of that material to date, the following extensions to the attainment dates for ozone and carbon monoxide are proposed for the following metropolitan areas:

Philadelphia: December 31, 1987 for ozone
June 30, 1983 for carbon monoxide
Pittsburgh: December 31, 1987 for ozone
December 31, 1985 for carbon monoxide
Allentown-Bethlehem-Easton: December 31, 1984 for ozone
Scranton: December 31, 1984 for ozone
Wilkes-Barre: December 31, 1984 for ozone

The public is invited to submit to the address stated above, comments on whether the proposed amendments to the Pennsylvania air pollution regulations should be approved as a revision of the Pennsylvania State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

A supplement to an April 4, 1979 Notice of Proposed Rulemaking (44 FR 20372 [1979]) was published on July 2, 1979 (44 FR 38583 [1979]) involving among other things, conditional approval. EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections on a specified schedule. This notice solicits comment on what items should be conditionally approved. A conditional approval will mean that the restrictions on new major source construction will not apply unless, (1) the State fails to submit, by dates to be scheduled, SIP revisions necessary to remedy the deficiencies, or (2) the revisions are not approved by EPA.

The deficiencies in the Pennsylvania Plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. EPA is aware, however, that the Commonwealth of Pennsylvania and Allegheny County, for its portion, are undertaking efforts to rectify plan deficiencies.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401–7642)

Dated: July 16, 1979.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 79-22829 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Parts 163, 172]

[OPP-250019; FRL 1280-4]

Pesticide Programs; Guidelines for Registering Pesticides in the United States: Subparts G, I, and J; Notification to the Secretary of Agriculture of a Proposed Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of proposed regulation.

SUMMARY: Notice is given under section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's proposed regulation to implement section 3(c)(2) of FIFRA, which requires the Administrator to publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide. Subpart G, entitled Product Performance; Subpart I, entitled Experimental Use Permits; and Subpart J, entitled Hazard Evaluation: Nontarget Plants and Microorganisms are the portions of the guidelines involved.

FOR FURTHER INFORMATION CONTACT: William Preston, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, Washington, DC 20460 (703/557-1405).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulation) the comments of the Secretary and the response thereto of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign such regulation for publication in the **Federal Register** anytime after such 30-day period.

Pursuant to FIFRA section 25(a)(3), a copy of this proposed regulation has also been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Forestry, and Nutrition of the Senate. This section 3(c)(2) regulation was submitted to the FIFRA Scientific Advisory Panel on July 5, 1979 as required by section 25(d).

Statutory Authority: (Section 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended Pub. L. 92-516; 89 Stat. 973; Pub. L. 94-140, 89 Stat. 751 (7 U.S.C. 136 et seq.))

Dated: July 17, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22827 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

[Docket No. 78-46]

Amendment to Financial Reports by Common Carriers by Water in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to comment.

SUMMARY: Counsel for various carriers in the domestic offshore trade have requested reconsideration of our denial of enlargement of time to file comments in response to the notice of proposed rulemaking in this proceeding (44 FR 26944; May 8, 1979). Upon reconsideration we have determined that it would be useful to receive comments based on the results of the study of the transportation economist retained by these carriers. Accordingly, a 30-day enlargement of time will be granted.

DATES: Comments (original and fifteen copies) on or before August 8, 1979.

ADDRESSES: Comments to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-22736 Filed 7-23-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 90]

[PR Docket No. 79-167; RM-3235; FCC 79-406]

Geographic Sharing of Certain Frequencies in the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking in effect grants a joint petition filed by the Central Committee on Telecommunications of the American Petroleum Institute, Forest Industries Telecommunications, and the Special Industrial Radio Service Association requesting that rulemaking be instituted looking toward adoption of rules permitting sharing of certain frequencies in the Petroleum, Forest Industries, Special Industrial, and Manufacturers Radio Services.

DATES: Comments must be received on or before August 20, 1979, and Reply Comments must be received on or before September 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Rules Division, Private Radio Bureau, (202) 632-6497.

Adopted: July 3, 1979.

Released: July 18, 1979.

In the matter of amendment of Subpart D of Part 90 of the Commission's rules and regulations to provide for geographic sharing of certain frequencies in the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services, PR Docket No. 79-167, RM-3235.

1. The Commission has before it a joint petition for rulemaking filed by the Central Committee on Telecommunications of the American Petroleum Institute (Central Committee), Forest Industries Telecommunications (FIT), and the Special Industrial Radio Service Association (SIRSA) asking that rules be adopted to permit geographic sharing of certain frequencies in the three services these organizations represent as well as certain frequencies available to licensees in the Manufacturers Radio Service.

2. Briefly, the petition looks toward rule changes that would:

(a) Permit those eligible for licensing in the Special Industrial Radio Service to employ, in the North Central states,

certain specific frequencies in the 150–160 MHz band now primarily available in the Petroleum, Forest Products, and Manufacturers Radio Services;

(b) Permit those eligible for licensing in the Petroleum Radio Service to use, in the Texas-Louisiana Gulf Coast area, certain specific low band (30–50 MHz) frequencies primarily available in the Special Industrial Radio Service; and

(c) Permit those eligible for licensing in the Forest Products Radio Service to use, in the Pacific Northwest, certain specific frequencies in the 30–50 MHz band now primarily available in the Special Industrial Radio Service.

3. The Central Committee states that because of continued growth in oil and gas exploration and production activities in the Gulf Coast region of Texas and Louisiana and adjacent offshore waters, the Petroleum Radio Service land mobile radio users are experiencing increasingly severe frequency congestion. The Central Committee, which is the frequency coordinating committee for the Petroleum Radio Service says that, "there are few sites in the Texas-Louisiana Gulf Coast region where a VHF recommendation can now be made in good conscience."

4. In the Pacific Northwest, with expanding timber operations, FIT also claims continuing frequency shortage in the Forest Products Radio Service and states that on the low band and high band frequencies within 100 miles of Seattle, there are over 7,200 transmitters in use for an average occupancy of 100 units per channel. Within a 100 mile radius of Corvallis, Oregon, on these same channels, FIT says there are over 10,000 units, and within the same radius of Wallace, Idaho, again on the same channels, there are over 2,700 transmitters. In Washington and Idaho, some of these same channels are not available for use because they are assigned to Canadian licensees. These same channels are also shared with the Petroleum and Manufacturers Radio Services and there is additional use in those services.

5. SIRSA states that its members are experiencing congestion on the frequencies in the 30–50 and 150–160 MHz bands in almost all parts of the country since the seven basic industries that share Special Industrial Radio Service assignments are distributed geographically on a fairly equal basis. It cites a number of instances of congestion in various parts of the country in support of the joint petition.

6. There is little activity in the Petroleum, Forest Products, and Manufacturers Radio Services in the North Central states where the Special Industrial Radio Service licensees are experiencing severe congestion. Therefore, the Central Committee and FIT have identified ten frequencies that could be shared by those eligibles for licensing in the Special Industrial Radio Service in the states of North Dakota, South Dakota, Iowa, Kansas, Missouri, Nebraska, Colorado, Wyoming, and Minnesota, provided, that some special consideration is given to Kansas City and St. Louis, Missouri and the northern part of Minnesota. Protection of those areas is taken into account in the geographic limitations placed on certain frequencies listed in the appendix. Thirty high band frequencies are allocated to Manufacturers Radio Service. The petitioners propose that Special Industrial Radio Service licensees share eight in the states mentioned.

7. The petitioners acknowledge that the frequency relief proposed in the joint petition involves assignments available in the Manufacturers Radio Service and that no reciprocal use is proposed for that service. They state that, although the Manufacturers Radio Service could benefit from participation in the sharing plan, there are no frequencies within the groups assigned to the Forest Industries, Petroleum, or Special Industrial Radio Services that can reasonably be shared with the Manufacturers Radio Service licensees. The petitioners, however, argue that there would not be a significant impact on the Manufacturers Radio Service from the sharing proposal. Nevertheless, we want to explore this matter further in this proceeding and comments are invited along with suggestions addressing the subject, particularly on the impact of the proposal on the Manufacturers Radio Service Service and the possibilities for participation in the sharing plan by that service.

8. SIRSA has identified ten frequencies in the low band (31–35 MHz range) that it believes can be shared to some extent with the Petroleum Radio Service along the Gulf Coast and adjacent offshore waters. SIRSA claims that no other Special Industrial frequencies in the 30–50, 150–160 MHz bands are available for sharing in that area, because they are used by Special Industrial Radio Service licensees, particularly those providing specialized services to the oil and gas industries.

9. SIRSA has also identified ten frequencies in the low band (below 50 MHz) that it believes can accommodate users in the Pacific Northwest who are eligible in the Forest Products Radio Service. FIT would prefer to obtain access to assignments in the 150–174 MHz range but, because of heavy Special Industrial usage (primarily for agriculture) it agrees that these are the only ones which can be shared without serious conflicts.

10. We have considered the petition carefully and we have tentatively concluded that it presents a practical, if limited plan to increase the utilization of a significant number of land mobile frequencies and thereby meet some of the needs of land mobile communication users in the three radio services involved. We have encouraged interservice sharing in the past and the geographic sharing plan proposed by the petitioners is one of the better ways to implement sharing of frequencies. We propose to grant the petition. The specific frequencies involved the areas where they would be available for sharing under this proposal, the requirements for interservice frequency coordination, and other specific matters are listed in the attached Appendix below.

11. Therefore, the petition, RM–3235, filed jointly by Central Committee, FIT and SIRSA is granted to the extent indicated in this Notice.

12. Regarding questions on matters covered in this document, contact Art King, telephone (202) 632–6497.

13. The proposed amendments to the rules as set forth in the appendix below are issued pursuant to the authority contained in Sections 4(i), 303(b), (f) and (r) of the Communications Act of 1934, as amended.

14. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 20, 1979, and reply comments on or before September 4, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such informatin is noted in the Report and Order.

15. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the

Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of the Commission's rules and regulations is amended as follows:

1. Section 90.65(b) Table is amended and paragraphs (c) (37) and (38) are added to read as follows:

§ 90.65 Petroleum Radio Service.

* * * * *

(b) Frequencies available. * * *

Frequency or band	Class of station(s)	Limitations
* * * * *		
MHz:		
* * * * *		
30.82	Base or mobile	4, 5, 8
31.32	do	37
31.40	do	37
31.44	do	37
31.48	do	37
31.52	do	37
31.60	do	37
31.64	do	37
31.72	do	37
31.76	do	37
33.18	do	
* * * * *		
33.38	do	
35.48	do	37
36.25	do	42
* * * * *		
153.080	do	4, 5, 13
153.095	do	13, 38
153.110	do	4, 5, 13
153.125	do	13, 38
153.140	do	4, 5, 13
153.155	do	13
153.170	do	4, 5, 13
153.185	do	13, 38
153.200	do	4, 5, 13
153.215	do	13
153.230	do	4, 5, 13
153.245	do	13, 38
153.260	do	4, 5, 13
153.275	do	13
153.290	do	4, 5, 13
153.305	do	13, 38
153.320	do	4, 5, 13
153.335	do	13, 38
153.350	do	4, 5, 13
153.365	do	13, 38
153.380	do	13
153.395	do	13, 38
153.425	do	14
* * * * *		
158.310	do	4, 5, 13
158.325	do	13, 38
158.355	do	10, 38
158.370	do	4, 5, 13
* * * * *		

(c) * * *

(37) This frequency is shared with the Special Industrial Radio Service, and is available for assignment in the Petroleum Radio Service only in the States of Texas and Louisiana within 75 miles of the Gulf of Mexico and in adjacent offshore waters. Evidence of interservice frequency coordination is required, and mobile relay stations will not be authorized.

(38) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota South of Latitude 47 degrees.

2. Section 90.67(b) Table is amended and paragraphs (c) (30) and (31) are added to read as follows:

§ 90.67 Forest Products Radio Service.

* * * * *

(b) Frequencies available. * * *

Frequency or band	Class of station(s)	Limitations
* * * * *		
MHz:		
* * * * *		
30.72	Base or mobile	
31.48	do	30
31.52	do	30
31.64	do	30
31.72	do	30
31.76	do	30
37.44	do	30
37.88	do	30
43.02	do	30
43.28	do	30
43.36	do	30
43.40	do	30
43.52	do	30
48.56	do	2
* * * * *		
153.080	do	6
153.095	do	6,31
153.110	do	6
153.125	do	6, 31
153.140	do	6
153.155	do	6
153.170	do	6
153.185	do	6, 31
153.200	do	6
153.215	do	6
153.230	do	6
153.245	do	6, 31
153.260	do	6
153.275	do	6
153.290	do	6
153.305	do	6, 31
153.320	do	6
153.335	do	6, 31
153.350	do	6
153.365	do	6, 31
153.380	do	6
153.395	do	6, 31
153.425	do	7
* * * * *		
158.310	do	6
158.325	do	6,31
158.355	do	6,31
158.370	do	2
* * * * *		

(c) * * *

(30) This frequency is shared with the Special Industrial Radio Service and is available for assignment in the Forest Products Radio Service only in the States of Washington; Oregon; Idaho; Nevada; and Montana west of Longitude 110 degrees; and California north of Latitude 39 degrees. Evidence of interservice frequency coordination is required, and mobile relay stations will not be authorized.

(31) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota South of Latitude 47 degrees.

3. Section 90.73(c) Table is amended and paragraphs (d)(29)(30) and (31) are added to read as follows:

§ 90.73 Special Industrial Radio Service.

* * * * *

(c) Frequencies available. * * *

Frequencies or band	Class of station(s)	Limitations
* * * * *		
31.28	Base or mobile	
31.32	do	29
31.36	do	
31.40	do	29
31.44	do	29
31.48	do	29, 31
31.52	do	29, 31
31.56	do	
31.60	do	29
31.64	do	29, 31
31.68	do	
31.72	do	29, 31
31.76	do	29, 31
31.80	do	
* * * * *		
35.44	Base or mobile	
35.48	do	29
35.52	do	
* * * * *		
35.86	do	2
43.02	do	31
* * * * *		
43.18	do	2
43.28	do	30
43.32	do	
43.36	do	31
43.40	do	31
43.44	do	
43.48	do	
43.52	do	31
47.44	do	2
* * * * *		
153.035	Base or mobile	2, 11
153.095	do	2, 30
153.125	do	2, 30
153.185	do	2, 30
153.245	do	2, 30
153.305	do	2, 30
153.335	do	2, 30
153.365	do	2, 30
153.395	do	2, 30
154.45625	Fixed or mobile	12, 13, 15, 25
* * * * *		
157.740	Base or mobile	2, 9
158.325	do	2, 30
158.355	do	2, 30
158.385	do	2

(d) * * *

(29) This frequency is shared with the Petroleum Radio Service in the State of Texas and Lousiana within 75 miles of the Gulf of Mexico and in adjacent offshore waters.

(30) This frequency is shared with other Industrial Radio Services, and available for assignment in the Special

Industrial Radio Service only in the State of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees. Evidence of interservice frequency coordination is required, and maximum transmitter output power may not exceed 110 watts.

(31) This frequency is shared with the Forest Products Radio Service in the States of Washington; Oregon; Idaho; Nevada; Montana west of Longitude 110 degrees; and California north of Latitude 39 degrees.

4. Section 90.79(c) Table is amended and paragraphs (d) (21) are added to read as follows:

§ 90.79 Manufacturer's Radio Service.

* * * * *

(c) Frequencies available. * * *

Frequency or band	Class of station(s)	Limitations
* * * * *		
MHz:		
153.080	Base or mobile	5
153.095	do	5, 21
153.110	do	5
153.125	do	5, 21
153.140	do	5
153.155	do	5
153.170	do	5
153.185	do	5, 21
153.200	do	5
153.215	do	5
153.230	do	5
153.245	do	5, 21
153.260	do	5
153.275	do	5
153.290	do	5
153.305	do	5, 21
153.320	do	5
153.335	do	5, 21
153.350	do	5
153.365	do	5, 21
153.380	do	5
153.395	do	5, 21
158.280	do	5
158.295	do	5
158.310	do	5
158.325	do	5, 21
158.415	do	5
* * * * *		

(d) * * *

(21) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees.

[FR Doc. 79-22770 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

[Ex Parte No. MC 19 (Sub-No. 34)]

Household Goods Transportation (Storage-in-Transit Charges); Extension of Comment Period

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: By a notice of proposed rule served May 23, 1979, and published in the Federal Register on May 25, 1979 (44 FR 30387), the Commission sought comments on its proposal to require that storage-in-transit charges on household goods moving in interstate or foreign commerce be assessed on a daily basis rather than on a 30-day basis. The comments were sought on or before July 24, 1979. Petitions for an extension were filed, and an extension of 30 days is granted.

DATES: Comments in this proceeding are due on or before August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION: Household Goods Carriers' Bureau and Nilson Van & Storage (petitioners) have requested that the due date for the filing of comments be extended to November 21, 1979, and October 23, 1979, respectively. The petitioners state that the 60-day filing period originally provided for does not allow sufficient time for the development of meaningful cost studies. Further, the petitioners point out that the moving industry is currently engaged in its busy season and that fuel and labor problems have existed in the past several weeks.

The Commission's Office of Special Counsel filed a petition in opposition of the sought extensions.

The extensions sought are excessive and have not been justified. As a part of their arguments the petitioners state that the moving industry is now engaged in its busy season. This is an operational consideration which should not interfere with the petitioners' formulation of statements of their positions in this proceeding. The petitioners have already had some time to develop their cost studies. In any event, the studies mentioned by the petitioners do not appear to be essential to their argument for the continued practice of assessing storage charges on a 30-day basis. We realize that any revenue which the industry might lose by assessing the storage charges on a daily basis might have to be made up elsewhere.

I feel that a limited extension of 30 days is warranted.

Decided: July 17, 1979.

By the Commission, Chairman O'Neal.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-22825 Filed 7-23-79; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 44, No. 143
Tuesday, July 24, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Relocation of Plant Quarantine Station From Glenn Dale, Md., to Beltsville, Md.; Issuance of Negative Declaration

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Availability of Environmental Analysis and Negative Declaration.

SUMMARY: This gives notice that Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the relocation of the Plant Quarantine Station from Glenn Dale, Maryland to Beltsville Agricultural Research Center-East, Maryland. The environmental assessment of this action indicates that the existing facility has not caused significant adverse local, regional, or national impacts upon the environment in its present Glenn Dale location nor are there any adverse environmental impacts anticipated in the proposed improved and enlarged facility to be located at Beltsville. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

ADDRESSES: A limited number of copies of the environmental analysis are available upon request from the energy and Environmental Staff, Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 271, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Copies are available for public inspection during regular working hours at the following location: Office, Plant Protection and Quarantine Programs, Animal and Plan Health Inspection Service, Plant Germplasm Quarantine Center, U.S. Department of Agriculture, Building 320-East, Center Road, Beltsville Agricultural Research Center-East, Beltsville, MD 20705.

FOR FURTHER INFORMATION: Contact John H. Green, Energy and Environmental Staff, Area Code (301) 436–8237.

SUPPLEMENTAL INFORMATION: Animal and Plant Health Inspection Service has been allocated land in Beltsville Agricultural Research Center-East for the purpose of constructing the proposed Plant Quarantine Station. The relocation is considered necessary in order to construct technically improved facilities, to allow for a buffer zone that safeguards the facility and to allow for future expansion of this program. The Plant Quarantine Station, presently located in Glenn Dale, is the only facility in the United States responsible for the importation of quarantined plant genetic material used to improve native crops including propagation of pest resistant varieties. The existing facility is antiquated, cannot be expanded, and subject to problems of urbanization such as vandalism or trespassing. This negative declaration has been filed with the U.S. Environmental Protection Agency and with various Federal, State, and local agencies.

No administrative action will be taken until August 8, 1979.

Note.—This notice has been reviewed under the U.S. Department of Agriculture criteria established to implement the EO 12044, Improving Government Regulations. A determination has been made that this notice should not be classified significant under those criteria. The environmental assessment referred to in the notice meets the requirements of EO 12044 and Secretary's Memorandum 1955 for an impact analysis statement. The environmental assessment is available from the Energy and Environmental Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

Done at Washington, D.C., this 12th day of July, 1979.

Pierre A. Chaloux,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 79-22819 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-34-M

Food and Nutrition Service

National Average Minimum Value of Donated Foods for the Period July 1, 1979–June 30, 1980

Pursuant to sections 6(e) and 17(h) of the National School Lunch Act, as amended, and the regulations governing the Donation of Foods (7 CFR Part 250), and Cash in Lieu of Commodities (7 CFR Part 240), notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under the National School Lunch Program (7 CFR Part 210) and per lunch and supper under the Child Care Food Program (7 CFR Part 226), shall be 15.75 cents for the period July 1, 1979—June 30, 1980. This value was derived by applying the annual percentage change in a three-month simple average value of the Price Index Used in Schools and Institutions for March, April, and May of 1978 and for March, April, and May of 1979 (from 201.8 in 1978 to 230.9 in 1979). The Index, prescribed for use in section 5(b) of Pub. L. 95–627, is computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry, and fish, dairy products, processed fruits and vegatables, and fats and oils). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics.

(Cataglog of Federal Domestic Assistance Nos. 10.555 and 10.558.)

Effective date: This notice shall be effective as of July 1, 1979.

Dated: July 19, 1979.

Carol Tucker, Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22822 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-30-M

Child Nutrition Programs; Income Poverty Guidelines for Determining Eligibility for Free and Reduced-Price Meals and Free Milk

AGENCY: Food and Nutrition Service, USDA.

ACTION: Correction of Notice.

SUMMARY: Notice is hereby given of omissions in the income poverty guidelines notice which was published in the **Federal Register** on June 15, 1979, page 34618. Those guidelines are

applicable to the 1980 school year, which is the period July 1, 1979 through June 30, 1980. The notice which appeared on June 15 incorrectly identified the National School Lunch Program as 7 CFR Part 220, and omitted reference to the School Breakfast Program for which the income poverty guidelines are also applicable. That notice also incorrectly stated that schools and institutions are required to serve free meals and free milk to children from families whose incomes are at or below 25 percent above the applicable family size income level indicated by the guidelines. This requirement has been eliminated by Amendment 13 to 7 CFR Part 245, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools. Amendment 13 gives school food authorities the option of providing free milk to eligible children. This notice of correction does not change the eligibility levels as originally published, nor delay the effective date of the original notice.

EFFECTIVE DATE: This notice shall become effective upon publication.

FOR FURTHER INFORMATION, CONTACT: Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–8130.

Accordingly, the **Federal Register** notice is changed to read as follows:

Pursuant to sections 9 and 17 of the National School Lunch Act, as amended [42 U.S.C. 1758 and 42 U.S.C. 1766], and sections 3 and 4(e) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772 and 1773(e)), the income poverty guidelines for determining eligibility of children for free and reduced-price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child Care Food Program (7 CFR Part 226), and commodity only schools (7 CFR 210.15(a)), and for free milk in the Special Milk Program (7 CFR Part 215) during the period July 1, 1979–June 30, 1980 are prescribed by the Secretary in the following tables.

Under the legislation and applicable regulations, schools and institutions which charge for meals separately from other fees are required to serve free meals and, at the option of the school food authority, free milk to all children from families whose incomes are at or below 25 percent above the applicable family size income level indicated by the Secretary's guidelines.

* * * * *

Dated: July 19, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22839 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

Colorado-Ute Electric Association, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $24,510,000 to Colorado-Ute Electric Association, Inc., of Montrose, Colorado, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $4,782,000 to this cooperative. These loans funds will be used to finance a project consisting of 12 miles of 115 kV and 50 miles of 230 kV transmission line and modifications and improvements to existing generation facilities. Funds are also requested for cost deficiencies on previously approved transmission and generation projects.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John Bugas, Manager, Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401.

In order to be considered, proposals must be submitted on or before August 23, 1979 to Mr. Bugas. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Colorado-Ute Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250

Dated at Washington, D.C., this 16th day of July, 1979.

Tom Burgum,

Administrator, Rural Electrification Administration.

[FR Doc. 79-22648 Filed 7-23-79; 8:45 am]

BILLING CODE 3510-15-M

CIVIL AERONAUTICS BOARD

[Order 79-7-98; Docket Nos. 35752, et al.]

Wild Card Route Case; Applications of Air Florida, et al.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of July, 1979.

In the matter of applications of Air Florida, Docket No. 35886, Braniff Airways, Docket No. 35873, Continental Air Lines, Docket No. 35875, Eastern Air Lines, Docket No. 35880, Lone Star Airways, Docket No. 35884, Pan American World Airways, Docket No. 35881, Trans International Airlines, Docket No. 35879, Trans World Airlines, Docket No. 35874, Western Air Lines, Docket No. 35878, World Airways, Docket No. 35887, and Northwest Airlines, Docket No. 35889; order on reconsideration and motions to consolidate.

By Order 79–6–42, the Board added seven cities to the eight points previously under consideration as the wild card gateway under Bermuda 2, and set the expanded case for hearing on an expedited basis. Motions to consolidate have been filed by Braniff Airways, Continental Air Lines, Lone Star Airways,[1] Pan American World Airlines, Trans International Airlines, Western Air Lines, World Airways, and Northwest Airlines.[2] Petitions for reconsideration have been filed by the Minnesota Parties, National Airlines, Trans International Airlines, Western Air Lines and World Airways. Answers have been submitted by Northwest Airlines, Trans World Airlines, Western Air lines and the Oakland Parties. The petitions are considered *seriatim*, below.

First, the Minnesota Parties ask the Board to reverse itself and to select a wild card city and airline on the basis of

[1] At the time this proceeding was instituted, all of the applicants were certificated carriers. The application of Lone Star, which is not certificated, raises the questions of its fitness and citizenship. These issues will, of course, be considered in this case.

[2] The dockets in which these applications have been filed are indicated above. We will grant the motions to the extent that the applications conform to the scope of the issues in this case, and dismiss those portions of the applications which do not. In addition, we will grant Air Florida's motion to withdraw its application in Docket 35886.

the record developed in the *Transatlantic Route Proceeding.*[3] Our June 5 Order explained why we consider a new record and a broader case to be necessary, and nothing in the Minnesota Parties' petition causes us to change our mind. National urges the Board to (1) postpone the proceeding until the U.S. and the U.K. can agree on a mutually-acceptable point or list of points for the wild card, and (2) to eliminate the issue of the termination or suspension of its authority between New Orleans or Tampa and London. As to the first point, we find it desirable for the Board to determine which city's and carrier's selection is in the public interest, therby giving U.S. negotiators a much sharper focus for negotiations. As to the second point, National will have ample opportunity at the hearing and on brief to argue that its New Orleans and Tampa rights should not be deleted or suspended. For reasons detailed in Order 79–6–42, however, we think that this issue merits consideration.

Western requests a clarification that the parties need not relitigate the issue of whether the public convenience and necessity require the certification of the eight original candidates for the wild card designation, since public convenience and necessity findings for each point were made in *Transatlantic,* Order 78–1–118. We agree that the parties are not required to submit further evidence that these cities can support nonstop service to London or otherwise deserve to receive it. But because of Bermuda 2, this case involves "city-selection" as well as carrier selection, and the parties will be permitted to introduce evidence on the relative merits of any of the various cities at issue regardless of whether any point was one of the original eight or a later addition. Moreover, to the extent that new applicants seek authority at any of the original eight gateways, that will raise the issue of whether the public convenience and necessity require the grant of their applications. Accordingly, with the one clarification made earlier, there is no need to modify the formal scope of the case as proposed by Western.

Next, we will grant TIA's request for a clarification that an applicant in this case may propose service to London from more than one of the points at issue (with one city serving as the nonstop gateway and the other as a beyond point) and may seek fill-up rights between the U.S. cities. Order 79–6–42, p. 5.

Finally, World asks for an expansion of the case to include Newark, Baltimore and Oakland as possible candidates for the wild card "slot." We have decided to deny this request. Newark currently receives nonstop service to London; Baltimore is already named in Bermuda 2 as a U.S. gateway (coterminalized with Washington, D.C.) and does not rank in the top 25 generators of revenue passenger miles; and Oakland ranks only 63rd in RPM's. Under these circumstances, and in light of the fact that this highly expedited case is already fairly well advanced,[4] we do not believe that it would be productive to expand the scope of the case as World requests.

Accordingly:

1. We deny the petitions for reconsideration of Order 79–6–42 filed by the Minnesota Parties, National Airlines, and World Airways;

2. Except to the extent granted above, we deny Western Air Lines' petition for reconsideration;

3. We grant Trans International Airlines' petition for reconsideration;

4. To the extent that they conform to the scope of the issues in this proceeding, we grant the motions to consolidate into Docket 35752 the applications filed by Braniff Airways (Docket 35873), Continental Air Lines (Docket 35875), Eastern Air Lines (Docket 35880), Lone Star Airways (Docket 35884), Pan American World Airways (Docket 35881), Trans International Airlines (Docket 35879), World Airlines (Docket 35874), Western Air Lines (Docket 35752), World Airways (Docket 35887), and Northwest Airlines (Docket 35889); [5]

5. To the extent not consolidated, we dismiss the applications listed in ordering paragraph 4;

6. We grant Air Florida's motion to withdraw its application in Docket 35886.

This order will be published in the **Federal Register.**

By the Civil Aeronautics Board:[6]

Phyllis T. Kaylor

Secretary.

[FR Doc. 79–22783 Filed 7–23–79; 8:45 am]

BILLING CODE 6320–01–M

[3] The Minnesota Parties also correctly note that, contrary to our statement in Order 79–6–42, Minneapolis/St. Paul did not request that Board to permit carriers in addition to Western and TWA to apply for Minneapolis/St. Paul-London authority. We regret the error. However, it does not change our resolution of the matters in issue.

[4] The Board has set a target date of January, 1980 for its decision. A prehearing conference has already been held, and procedural dates established which will permit this target to be met. Information responses are due July 11.

[5] We delegate to the presiding administrative law judge the authority to consolidate by order any applications which conform to the scope of the proceeding as clarified by this order.

[6] All Members concurred.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to consider: (1) Election of a Chairman; (2) Final working draft Fishery Management Plan (FMP) for Shallow-Water Reef Fishes; (3) Recommendations by the Scientific and Statistical Committee (SSC) to the Council regarding inclusion of Blackfin Tuna and Little Tunny in the FMP for Coastal Migratory Pelagics; (4) Adoption of a Council position regarding the Draft FMP for Billfishes; (5) Status reports on the following FMP's: Spiny Lobster, Mollusks (Conch and Whelk) and Deep-Water Reef Fishes; (6) Vacancies in the SSC and Advisory Panel (AP); (7) Presentation on the Foreign Longline Fishery; and (8) Other business.

DATES: The meeting will convene on Thursday, August 16, 1979, at 1:30 p.m. and will adjourn on Friday, August 17, 1979, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the Virgin Island Hotel, St. Thomas, Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Bance de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753–4926.

Dated: July 19, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–22836 Filed 7–23–79; 8:45 am]

BILLING CODE 3510–22–M

National Advisory Committee on Oceans and Atmosphere

Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Coimmittee Act, 5 U.S.C. (App. 1976), notice is hereby

given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day intersessional meeting on Thursday and Friday, August 2–3, 1979. The meeting will be held in the Building of the Re-entry and Environmental systems Division of the General Electric Company, 3198 Chestnut Street, Philadelphia, Pennsylvania. The Thursday session will convene at 1:00 p.m. and the session of Friday will begin at 9:00 a.m. Both will be open to the public and will adjourn at approximately 5:00 p.m.

The committee, consisting of 18-non Federal members, appointed by the president from State and local government, industry, science and other appropriate areas, was established by the Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The meeting will consist of planning sessions, by a small number of Committee members and staff, relative to the Committee's activities in the future. Specifically addressed will be NACOA's organization and mode of operation, as well as the potential issues upon which the Committee should focus its attention during the next year.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Mr. John W. Connolly, whose mailing address iss: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW (Suite 434, Page Building #1), Washington, DC 20235.The telephone number is (202) 254–8418.

Samuel H. Walinsky,

Executive Officer.

[FR Doc. 79-22785 Filed 7-23-79; 8:45 am]

BILLING CODE 3510-12-M

National Technical Information Service

Government-Owned Inventions: Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT–APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Ofice. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent 4,126,862: Countermeasure for LORO Radar; filed Apr. 23, 1968; patented Nov. 21, 1978; not available NTIS.

Patent 4,130,011: Flared Sonic End Nozzle Velocity Coupling Test Burner; filed June 14, 1977; patented Dec. 19, 1978, not available NTIS.

Patent 4,130,872: Method and System of Controlling a Jet Engine for Avoiding Engine Surge; filed Oct. 10, 1975; patented Dec. 19, 1978; not available NTIS.

Patent 4,131,438: Degasser and Liquid Seal Reservoir; filed Nov. 4, 1977; patented Dec. 26, 1978; not available NTIS.

Department of the Interior, Branch of Patents, 18th and C Streets, NW., Washington, DC. 20240.

Patent 4,091,990: Self-contained instrument for measuring subterranean tunnel wall deflection; filed Aug. 2, 1976; patented May 30, 1978: not available NTIS.

Patent application 958,592: Ventilation System for Automated Mining Machines; filed Nov. 7, 1978.

Patent 4,087,920: Two-Fluid Tiltmeter; filed Mar. 25, 1977; patented May 9, 1978; not available NTIS.

Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6,000,040: Elevation Simulation for Frequency Scan Three Dimensional Radar; filed Jan. 2, 1979.

Patent application 6,006,149: Fiber-Optic Acoustic Sensor; filed Jan. 24, 1979.

Patent application 965,760: Covert Recovery or Signalling System; filed Dec. 4, 1978.

Patent 4,119,164: Stand-Aid Invalid Wheelchair; filed Aug. 1, 1977; patented Oct. 10, 1978; not available NTIS.

Patent 4,131,609: Silicon-Phthalocyanine-Siloxy Monomers; filed Feb. 23, 1978, patented Dec. 26, 1978; not available NTIS.

National Aeronautics and Space Administration, Assist. Gen. Couns. for Pat. Matters, NASA Code GP–2, WASHINGTON, DC. 20546.

Patent application 6,008,208: A Phase-Angle Controller for Stirling Engines; filed Jan. 31, 1979.

Patent application 6,009,867: Atomic Hydrogen Storage Method and Apparatus; filed Feb. 6, 1979.

Patent application 6,015,983: An Improved System for Use in Conducting Wake Investigation for a Wing in Flight; Filed Feb. 28, 1979.

Patent application 6,017,884: An Improved Solar Panel and Method for Fabricating the Same; filed Mar. 6, 1979.

Patent application 6,017,890: Method and Apparatus for Quadriphase-Shift-Key and Linear Phase Modulation; filed Mar. 6, 1979.

Patent application 6,019,541: Aerodynamic Side-Force Alleviator Means. Filed Mar. 12, 1979.

Patent application 964,009: Detection of the Transitional Layer between Laminar and Turbulent Flow Areas on a Wing Surface; filed Nov. 27, 1978.

Patent 4,109,644: Minature Implantable Ultrasonic Echosonometer; filed Jan. 12, 1977; patented Aug. 29, 1978; not available NTIS.

Patent 4,135,290: Method for Fabricating Solar Cells Having Integrated Collector Grids; filed Dec. 23, 1977; patented Jan. 23, 1979; not available NTIS.

Patent 4,135,367: Thermal Energy Transformer; filed Aug. 12, 1977, patented Jan. 23, 1979; not available NTIS.

Patent 4,135,817: Apparatus for Measuring an Aircraft's Speed and Height; filed Mar. 9, 1978; patented Jan. 23, 1979; not available NTIS.

Patent 4,135,851: Composite Seal for Turbomachinery; filed May 27, 1977, patented Jan. 23, 1979; not available NTIS.

Patent 4,137,010: Constant Lift Rotor for a Heavier Than Air Craft: filed July 25, 1977; patented Jan. 30, 1979; not available NTIS.

[FR Doc. 79-22781 Filed 7-23-79; 8:45 am]
BILLING CODE 3510-04-M

Office of Minority Business Enteriprise

Financial Assistance Application Announcement

The Office of Minority Business Enterprise (OMBE) announces that it is seeking applications for six projects in various parts of the country, each of which will provide, at no cost to the public, direct general business information, counseling, financial packaging assistance and assistance in identifying and exploiting business opportunities in new and/or expanded markets.

Project Information: In the event an applicant decides to apply for more than one project, it must submit individual applications for each project. The six projects are as follows:

1. A project which is designed to operate in the northern part of Los Angeles, California area for a 12-month period beginning September 9, 1979 with a minimum professional staff effort of 10 man-years and a maximum funding level of $300,000. The number for this project is 09–60–50280–00.

2. A project which is designed to operate in Santa Clara, Santa Cruz, Monterey, and San Benito Counties in California for a 12-month period beginning October 1, 1979 with a minimum professional staff effort of 6 man-years and a maximum funding level of $200,000. The number for this project is 09–60–50320–00.

3. A project which is designed to operate in Buffalo, New York area for a 12-month period beginning September 16, 1979 with a minimum professional staff effort of 4 man-years and a maximum funding level of $125,000.00. The number for this project is 02–10–22670–00.

4. A project which is designed to operate in Trenton, New Jersey area for a 12-month period beginning October 1, 1979 with a minimum professional staff effort of 4 man-years and a maximum funding level of $120,000. The number for this project is 02–10–45200–00.

5. A project which is designed to operate in Albany, New York area for a 9-month period beginning October 1, 1979 with a minimum professional staff effort of 5 man-years and a maximum funding level of $109,163. The number for this project is 02–10–45120–00.

6. A project which is designed to operate in the State of Alaska for a 12-month period beginning September 1, 1979 with a minimum professional staff effort of 2 man-years and a maximum funding level of $115,000. The number for this project is 10–60–50800–00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Eligibility Requirements: Any for-profit or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by phone by calling Joyce Russman at (202) 377–1714 or it may be obtained at the following address: U.S. Department of Commerce, Office of Minority Business Enterprise, Program Support Staff, Room 5713, Box FR–3, 14th & Constitution Avenue NW., Washington, D.C. 20230.

In requesting an application kit, specify the project number, the city or state the project will serve and if the applicant is either a State or Local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of nonprofit organization, or if the applicant is a for-profit firm. This information is necessary to enable OMBE to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Officer to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of August 17, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: July 19, 1979.

Allan A. Stephenson,

Acting Director.

[FR Doc. 79-22788 Filed 7-23-79; 8:45 am]
BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Level for Certain Man-Made Fiber Textile Products From the Republic of Singapore

July 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the minimum consultation level for women's, girls' and infants' woven blouses of man-made fibers in Category 641 exported from Singapore during the twelve-month period which began on January 1, 1979.

SUMMARY: Paragraph 5 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore provides for the establishment of consultation levels for certain categories, like Category 641, which are not subject to specific limits. The two governments have agreed by an exchange of letters dated May 31 and June 20, 1979 to increase the consultation level for Category 641 from 48,276 dozen to 68,966 dozen during the agreement year which began on January 1, 1979.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5421).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the Federal Register (44 FR 932) a letter dated December 28, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the

Commissioner of Customs to increase the level of restraint for Category 641 to 68,966 dozen.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 19, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 28, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on July 19, 1979, the level of restraint established in the directive of December 28, 1978 for Category 641 to 68,966 dozen.[1]

The action taken with respect to the Government of the Republic of Singapore and with respect to imports of man-made fiber textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions of the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-22812 Filed 7-23-79; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Progress Carpet Mills, Inc., and Julian A. Peeples; Provincial Aceeptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provincial Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Progress Carpet Mills, Inc., a Georgia corporation, and Julian A. Peeples, individually and as an officer of that corporation, both of Chatsworth, Georgia 30705, in which they agree to manufacture and sell carpets and rugs that conform to the Flammable Fabrics Act, all applicable regulations issued thereunder, and the Standard for the Surface Flammability of Carpets and Rugs; to recall, and process into conformance or destroy, certain rolls of carpet in styles "Tempo" and "Breezy"; and to maintain certain records and to file requested reports. If finally accepted, this consent agreement will settle allegations of the Commission staff that Progress Carpet Mills and Peeples have violated provisions of the Flammable Fabrics Act.

DATE: Written comments on the provisionally accepted consent agreement must be received by the Commission by August 8, 1979

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be seen in, or obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: George E. Hill, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. (Phone 301-492-6629).

Dated: July 18, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-22735 Filed 7-23-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 9, 1979.

The USAF Scientific Advisory Board on the C-5A Structural Information Enhancement Program will hold a meeting on August 13-14, 1979 in Conference Room B, Lockheed-Georgia Company, Marietta, Georgia.

The Committee will receive unclassified briefings from 8:30 a.m. to 5:00 p.m. on August 13, and from 8:30 a.m. to 1:30 p.m. on August 14, concerning the C-5A Structural Information Enhancement Program. The meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-22779 Filed 7-23-79; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session August 22, 1979, at 201 Varick Street, 9th Floor, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposed to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

July 19, 1979.

[FR Doc. 79-22746 Filed 7-23-79; 8:45 am]

BILLING CODE 3810-70-M

ENERGY DEPARTMENT

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

Correction

In FR Doc. 79-19935 appearing at page 37534 in the issue for Wednesday, June 27, 1979, middle column, under

[1] The level of restraint has not been adjusted to reflect any entries after December 31, 1978.

EFFECTIVE DATE, "October" should read "September".

BILLING CODE 1505-01-M

National Petroleum Council, Task Group of the NPC Committee on U.S. Petroleum Inventories and Storage and Transportation Capacities; Meeting

Notice is hereby given that the Gas Pipeline Task Group of the NPC Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will meet on July 31, 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling the meeting is the Gas Pipeline Task Group. The time, location and agenda of this meeting follows:

The ninth meeting of the Gas Pipeline Task Group will be held on Tuesday, July 31, 1979, starting at 10:30 a.m., in the Georgetown Room, the Brown Palace Hotel, 321 17th Street, Denver, Colorado. The tentative agenda for the meeting follows:

1. Introductory remarks by Larry E. Hanna, Chairman.
2. Remarks by Lucio D'Andrea, Government Cochairman.
3. Review of draft of the task group report.
4. Discussion of any other matters pertinent to the overall assignment of the task group.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statement should inform Mario Cardullo, Office of Resource Applications, 202-633-8828, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 17, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

[FR Doc. 79-22759 Filed 7-23-79; 8:45 am]

BILLING CODE 6450-01-M

[6450-01]

Robert D. Nininger; Waiver Pursuant to Section 207, Title 18, United States Code and section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95-91)

Section 207, title 18, United States Code (section 207) authorizes the Head of an Agency to waive the post-employment prohibitions of section 207, and section 605(a)(3) of the Department of Energy Organization Act (the Act) authorizes the Secretary of Energy to waive the post-employment restrictions of section 605(a)(1) of the Act, for a former employee with outstanding scientific or technological qualifications in connection with a particular matter in a scientific or technological field, where it has been determined that such a waiver would serve the national interest.

It has been established to my satisfaction that Robert D. Nininger, formerly Director, Raw Materials, Office of Uranium Resources and Enrichment, has outstanding scientific and technological qualifications in the geology of uranium and other atomic materials and outstanding scientific knowledge and experience with the world's uranium resources and capabilities. I am further satisfied that his continued participation as an employee of a DOE Contractor in connection with certain international activities relating to uranium resources will serve the national interest. I have therefore waived the post-employment representational and appearance and communications prohibitions of section 207, title 18, United States Code and section 605(a)(1) of the Act, respectively, with respect to activities by Mr. Robert D. Nininger in connection with the following:

INFCE Working Group 1, Availability of Nuclear Fuels and Heavy Water;
International Atomic Energy Agency/Nuclear Energy Agency Steering Group on Uranium Resources and Joint Working Party on Uranium Resources; and
International Uranium Resource Evaluation Project.

Dated: Issued in Washington, DC on the 10th day of July 1979.

James R. Schlesinger,

Secretary of Energy.

[FR Doc. 22761 Filed 7-23-79; 8:45 am]

BILLING CODE 6450-01-M

Office of the Special Counsel for Compliance

[Case No. 940R00066]

Union Oil Co. of California; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J(c) the Office of the Special Counsel (OSC) of the Department of Energy hereby gives notice of final action taken on a Consent Order.

On April 9, 1979 OSC published Notice of a Consent Order which was executed between Union Oil Co. of California ("Union") and OSC (44 FR 21068 (April 9, 1979)). With that Notice, and in accordance with 10 CFR § 205.199J(c), OSC invited interested persons to comment on the Consent Order by submission of written responses on or before May 9, 1979.

At the expiration of the comment period, two comments had been received with respect to the Consent Order. One comment noted approval of the Consent Order. The other comment stated the author's preference as to how it should receive refunds. Since the Consent Order provides for a bank reduction of increased costs by Union, and does not contemplate refunds at the present time, any overrecoveries of increased costs by Union which result from the bank reduction will be addressed by OSC at a future date.

Therefore, after considering the comments to the consent Order OSC has concluded that the Consent Order as executed between OSC and Union is an appropriate resolution of the compliance proceedings described in the Notice published on April 9, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, on or before July 24, 1979.

Issued in Washington, D.C. on the 9th day of July, 1978.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-22760 Filed 7-23-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1279-7]

Approval and Promulgation of Implementation Plans; Availability of Implementation Plan Revisions for Nonattainment Areas in Kentucky

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of availability.

SUMMARY: EPA announces today that the Kentucky implementation plan revisions for the total suspended particulate, sulfur dioxide, carbon monoxide and ozone nonattainment areas due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection.The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the **Federal Register** later; the period for the submittal of written comments will extend for 30 days after the publication of the notice of proposed rulemaking.

ADDRESSES: The Kentucky submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

In addition, the Kentucky revisions may be examined at the offices of the Kentucky Division of Air Pollution Control, West Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland St., NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Barry Gilbert of EPA's Region IV Air Programs Branch. Mr. Gilbert may be reached by telephone at 404/881-2864 (FTS 257-3864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, and September 11, 1978, the Administrator desiganted a number of areas in Kentucky as nonattainment for total suspended particulates, sulfur dioxide, carbon monoxide and ozone (43 FR 8962 and 40412). This State has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that these have been formally submitted and are available for public inspection. Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502).)

Dated July 16, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79-22831 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1279-2]

Intent To Release Confidential Data

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to release confidential data to the Department of Defense (DOD).

SUMMARY: The Environmental Protection Agency (EPA) intends to release confidential data collected from the printing ink and pulp and paper industries under section 308 of the Clean Water Act to DOD for civil defense planning activities.

DATES: Comments on the proposed disclosure are due by August 8, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. (202) 426-2554.

SUPPLEMENTARY INFORMATION: EPA has received a request from DOD for information collected by EPA under section 308 of the Clean Water Act. DOD intends to evaluate the ability of this country to restore written communications following various types of nuclear attack. In order to complete this study it is important for DOD to obtain detailed knowledge of the geographic distribution of specific types of industrial facilities and data concerning individual plant production capability.

EPA has collected very detailed information on the printing ink and pulp and paper industries in its surveys of these industries in 1976-1978 under its Clean Water Act authority for the purpose of developing effluent guidelines, new source performance standards, and pretreatment standards under sections 301, 304, 306 and 307 of the Act. Many of the responses to the questionnaires used in the survey contain production and other plant manufacturing information which the individual companies have requested EPA protect as confidential.

DOD has requested that EPA provide all information in its data base relating to individual plant locations, products produced, production employees utilized and maximum production capacity. By using 308 data the total cost to DOD of obtaining accurate information will be significantly reduced. DOD hopes to avoid the need to make any similar industry surveys and reduce reporting burdens for these facilities. In EPA's opinion, such actions carry out Congress' directive under section 3501 of the Federal Reports Act that agencies eliminate where paracticable duplicative information gathering activities.

DOD has complied with all applicable EPA regulations governing the disclosure of confidential information in the possession of EPA to another Federal Agency (40 CFR 2.209.(c)(1),(2) and (5), amended by 43 FR 39997 (September 8, 1978)). In accordance with those regulations, EPA will notify DOD that disclosure of such information may be a violation of 18 U.S.C. 1905 (40 CFR 2.209(c)(4)). Also, respondents who have submitted confidential information in response to the questionnaires identified above have fifteen days from the date of publication of this notice, August 8, 1979, within which to comment on EPA's contemplated release of this information to DOD for the purposes outlined above. (40 CFR 2.209(c)(3)).

Dated: July 18, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-22841 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1280-2; OPP-180329]

Idaho and Washington State Departments of Agriculture; Issuance of Specific Exemptions To Use Carzol To Control Two-spotted Spider Mites on Hop Crop

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Idaho and Washington State Departments of

Agriculture (hereafter referred to as "Idaho," "Washington," or the "Applicants") to use Carzol SP on 2,600 acres of commerical hop crop in Idaho and 22,000 acres in Washington to control the two-spotted spider mite. The specific exemptions expire September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicants, the two-spotted spider mite (*Tetranychus urticae* Koch) is normally present in hop yards. The Applicants allege that mites have developed resistance to registered miticides. The Applicants also stated that even though Carzol SP has a pre-harvest interval of 14 days, this pesticide has sufficient residual activity to protect the hop crops up to harvest.

Washington requested permission to treat up to 22,000 acres of commercial hop crop, with a maximum of three applications limited to Yakima and Benton Counties. Idaho requested permission to treat up to 2,600 acres in Canyon County. The pesticide will be applied by State-licensed commercial applicators and commercial growers using ground equipment. Washington stated that the potential economic loss from a major outbreak of the two-spotted spider mite could reach $20,000,000; Idaho estimated a possible loss of $1,000,000.

EPA has determined that residues of formetanate hydorchloride in or on dried hops, resulting from the proposed use, should not exeed 150 parts per million (ppm). Maximum residues in beer are calculated to be 0.5 ppm. These levels have been judged adequate to protect the public health.

Carzol SP (formetanate hydrochloride), when used at the proposed rates, is not expected to present any acute or chronic effects to wildlife. Because formetanate is strongly bound to soil, has limited leaching activity, and has low persistence, it does not appear to pose a threat to the aquatic environment. Although it is moderately toxic to bees and predaceous insects, bees do not work hop fields and any adverse effects to predaceous insect populations would be temporary. There are no endangered species in the treatment areas, according to the Office of Endangered Species, U.S. Department of the Interior.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of two-spotted spider mites have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control the two-spotted spider mite in Idaho and Washington State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the two-spotted spider mites are not controlled; and (e) the time available for action to mitiage the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions.

1. Three applications of Carzol SP (active ingredient (a.i.) formetanate hydrochloride), EPA Reg. No. 2139–99, are authorized. The first application shall be made at a dosage rate of 1.0 pound product (0.92 lb. a.i./acre). The second and third applications are to be made at three week intervals and at a dosage rate of 1.5 lb. product (1.38 lb. a.i./acre);

2. A maximum of 80,960 pounds a.i. in Washington, and 9,568 poinds in Idaho may be used;

3. Applications are authorized only when State Extension Agents or State-licensed private consultants determine that two-spotted spider mite populations are reaching levels requiring treatment with Carzol SP;

4. Applications are to be made with ground equipment of the airblast type. Either commerical growers or State-licensed commerical applicators may apply Carzol SP;

5. There is to be a pre-harvest interval of 14 days;

6. Hops refuse must not be fed to livestock;

7. Dried hops and beer with residue levels not exceeding 150 ppm and 0.5 ppm, respectively, may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Idaho and Washington must each submit a full report of the results of this program to EPA by the end of March, 1980;

9. The EPA shall be immediately informed of any adverse effects resulting from the use of Carzol SP in connection with these exemptions;

10. In order to minimize adverse effects to natural predators, precautions must be taken to avoid drift to non-target areas; and

11. All applicable label use directions, precautions, and restrictions must be followed.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: July 17, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–22847 Filed 7–23–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1280–3; OPP–180339]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Oxamyl on Peppermint To Control Mint Nematode

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use 12,000 pounds of oxamyl on 3,000 acres of peppermint to control the mint nematode in four counties in Oregon. The specific exemption expires on December 31, 1979.

FOR FURTHER INFORMATION CONTACT. Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA 401 M Street, SW, Room: E–124, Washington, D.C. 20460, Telephone: 202/426–2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The mint nematode (*Longidorus elongatus*) attacks the root system of peppermint causing stand reduction and serious yield losses. The flood plain soils of the Santiam and Willametter Rivers are of a coarse texture which provides an excellent medium for the mint nematode.

Soil fumigants such as D–D, Telone, Vorlex, and methyl bromide, are the standard treatment. Such fumigation effectively reduces the nematode population but does not eliminate it. Fumigation can take place only prior to

planting the peppermint, Thus, by the second and succeeding years the nematode pupulation has reached pretreatment levels or higher and causes serious damage to the peppermint plants. According to the Applicant, this is a critical situation in that positive economic returns from a mint planting do not usually begin until the second production year. Beyond preplant funigation there is no cultural practice, no nematode-resistant mint variety, nor any nematocide registered for use on established mint stands to help growers combat nematode problems for the remainder of the life of the mint stand. According to the Applicant, mint growers in the Santiam and Willamette Rivers areas may lose as much as $1.9 million due to the mint nematode this year, without an effective program.

The Applicant proposed to treat approximately 3,000 acres of mint in Benton, Lane, Linn, and Marion Counties at a rate of two pounds oxamyl per acre using ground equipment. A pre-harvest interval of thirty days is imposed.

EPA has determined that the proposed use of oxamyl should not result in residues exceeding 1.0 part per million (ppm) in mint oil. This level has been judged adequate to protect the public health. Spent mint hay is not gernerally a feed item. This use of oxamyl is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of mint nematodes has occurred or is likey to occur; (b) there is no pesticide presently registered and available for use to control the mint nematode in Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the mint nematode is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Vydate L (EPA Reg. No. 352–372) may be applied;

2. Application rate will be two pounds of active ingredient in 20–30 gallons of water per acre, by ground equipment;

3. No more than two applications per year may be made and a thirty-day pre-harvest interval is imposed;

4. A total of 12,000 pounds of oxamyl is authorized to treat up to 3,000 acres of peppermint in the counties named above;

5. Applications will be made by State-certified private applicators or by State-licensed commercial applicators;

6. Only fields containing three hundred or more mint nematodes per quart of soil may be treated;

7. All applicable directions and precautions on the EPA-registered label must be observed;

8. Spent mint hay may not be grazed or cut for feed;

9. Peppermint treated in accordance with the above provisions should not have residues in excess of 1.0 ppm oxamyl in mint oil. Peppermint oil with residues of oxamyl not exceeding this level may be shipped in interstate commerce. Spent mint hay may not be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;

10. The EPA will be immediately informed of any adverse effects resulting from the use of oxamyl in connection with this exemption; and

11. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by March 31, 1980.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: July 17, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22846 Filed 7-23-79; 8:45 am]

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[FRL 1280-5; Docket No. ECAO-HA-78-3]

Health Assessment Document for Tetrachloroethylene (Percholoroethylene); Extension of Comment Period for External Review Draft

The deadline for receipt of comments on the external review draft, announced in 44 FR 25688 (May 2, 1979), is extended from July 18, 1979 to September 10, 1979.

Dated: July 19, 1979.

Stephen J. Gage,

Assitant Administrtor for Research and Development.

[FR Doc. 79-22848 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1279-1; OPP-68005 A]

Pesticide Programs; Intent To Suspend Registrations of Pesticide Products Containing Dibromochloropropane (DBCP)

I. Introduction

This notice announces my intention to take expedited action under section 6(c) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), to control on an interim basis the hazards from use of pesticide products containing dibromochloropropane (DBCP), since I have found that continued use of such products poses an "imminent hazard". As developed more fully below, this provision of FIFRA authorizes me to prohibit, on an interim basis, the distribution, sale and use of a pesticide in situations where the use of that pesticide appears likely to pose an unreasonable risk to man or the environment during the period necessary to conduct and complete more lengthy administrative proceedings in which the ultimate fate of the pesticide can be determined.

This document is organized into five parts. Part I is this introduction. Part II is a brief description of the provision of the statute under which this action is taken. Part III is a summary of the already lengthy and complex regulatory history of actions which the Agency has initiated within the last two years concerning DBCP. Part IV is a discussion of the interim remedy I have decided to impose together with my findings and conclusions that continued use of DBCP poses an imminent hazard. Part V is devoted to procedural matters concerning requests for an expedited hearing and the hearing itself if one is requested.

II. Legal Authority

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must prove that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide "perform its intended function without unreasonable adverse effects on the environment" section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the

economic , social and environmental costs and benefits of the use of any pesticide" section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of the use.

The burden of proving that a pesticide satisfies the registration standard continues for as long as the registration remains in effect and is on the proponent of registration at all times. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide whenever he determines that the pesticide no longer satisfies the statutory standard for registration. The administrative procedures for making and implementing pesticide cancellation decisions may be very time-consuming, and the Agency's experience has been that as much as two years may be necessary in order to reach a final decision in a contested case.

The suspension provisions in section 6(c) of the statute are designed to give the Administrator authority to take interim action pending the completion of the time-consuming procedures required for reaching final registration decisions. Pursuant to that section, the Adminstrator may suspend the registration of a product, and thereby preclude its distribution, sale or use, upon a finding that the pesticide poses an "imminent hazard" to man or the environemnt. "Imminent hazard" is defined in the statute to mean:

> "a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Public Law 94–135."

As discussed above, "unreasonable adverse effects on the environment" is defined to mean a situation where the risks of the use of a pesticide outweigh the benefits of use. Thus, in order to find that an imminent hazard exists it is necessary to find that the risks of use during the period likely to be required for cancellation proceedings appear to outweigh the benefits.

The courts have repeatedly "cautioned that the term 'imminent hazard' is not limited to a concept of crisis: 'it is enough if there is *substantial likelihood* that serious harm will be experienced during the year or two required in any realistic projection of the administrative [cancellation] process' " *Environmental Defense Fund, Inc.* ["EDF"] v. *Environmental Protection Agency* ["EPA"], 510 F.2d 1292, 1297 (D.C. Cir. 1975) (Emphasis in original), quoting from *EDF* v. *EPA*, 465 F.2d 528, 540 (D.C. Cir. 1972). *Accord, EDF* v. *EPA*, 548 F.2d 998, 1005 (D.C. Cir. 1976). Moreover, the registrant bears the burden of proof during a suspension proceeding, because, as indicated above, the burden of proof under FIFRA always resides with the proponent of registration throughout the life of a registration. See, e.g., *EDF* v. *EPA*, 510 F.2d at 1297; *EDF* v. *EPA*, 465 F.2d at 540. Finally, the courts have repeatedly held that "the function of a suspension decision is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues." *EDF* v. *EPA*, 510 F. 2d 1292, 1298 (1975). *Accord, EDF* v. *EPA*, 548 F. 2d 998, 1005 (D.C. Cir. 1976).

Suspensions are not ordinarily effective immediately; instead, in most cases the Administrator is required to give registrants notice of his intention to suspend, and 5 days in which to request a hearing. If no hearing is requested, a suspension order may be issued, thereby making the suspension effective. However, if a hearing is requested, the Administrator is required to convene expedited administrative proceedings, in which the sole issue is whether or not an imminent hazard exists.

III. Regulatory History of DBCP Suspension and Cancellation Proceedings

On September 8, 1977, I issued a Notice of Intent to Suspend and Conditionally Suspend Registrations of Pesticide Products Containing Dibromochloropropane (DBCP) (42 FR 48915, September 26, 1977), based on my finding that the continued use of DBCP products posed an imminent hazard to man. That finding was based on my conclusion that exposure to DBCP posed a serious health risk since "it appears that not only is DBCP a powerful carcinogen in animals which provides strong evidence that it is a human carcinogen, but that it may also damage human reproductive functions, and may cause sterility in males." (42 FR at 48917). That notice therefore proposed two separate but related suspension actions: the unconditional suspension of DBCP products for use in nineteen (19) specific food crops in which DBCP residues occurred, or appeared reasonably likely to occur, in the edible portions of treated crops; and the conditional suspension of DBCP products for all other uses.[1] With respect to the conditionally suspended uses, I found that the risks to applicators could be sufficiently reduced at least on an interim basis by the imposition of appropriate restrictions (including limitation to certified applicators utilizing respirators and protective clothing) and accordingly indicated that relief from conditional suspension could be accomplished by obtaining an interim registration amendment to reflect those restrictions. I also indicated that such applications for interim registration amendments would be without prejudice to the registrant's right to challenge the unconditional suspension of the food crop uses, and without prejudice to the Agency's right to review the adequacy of the restrictions at a later date.

Pursuant to Section 6(c) of FIFRA, each registrant of a DBCP product was given an opportunity to request an expedited hearing before the Agency on the question of whether an imminent hazard existed. The Agency received only three timely requests for an expedited hearing, each of which was subsequently withdrawn. Consequently, on October 27, 1977, I issued a Suspension Order effectuating the suspension and conditional suspension actions which I had announced my intention to implement on September 8, 1977. (42 FR 57543, November 3, 1977.[2]

At the same time that I issued the Suspension Order, I also issued a Notice of Intent to Cancel the Registrations or Change the Classifications of Pesticide Products Containing DBCP, and Statement of Reasons (the "Original Section 6(b)(1) Notice") (42 FR 57545, November 3, 1977), in which I found that the continued use of pesticide products containing DBCP in accordance with then-current labeling restrictions appeared to pose unreasonable risks to man and the environment amounting to "unreasonable adverse effects on the environment", and I therefore announce my intention to cancel or change the classifications of all registered uses of DBCP pursuant to Section 6(b) of FIFRA.

In the Original Section 6(b)(1) Notice, I also acknowledged that the Agency's Office of Pesticide Programs (OPP) had issued a Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide

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[1] The conditionally suspended uses are: Cotton, soybeans, citrus, grapes, pineapples, peaches, nectarines, plums, almonds, commercial okra, commercial lima beans, commercial snap beans, commercial southern peas, berries (blackberries, blueberries, loganberries, dewberries, boysenberries, raspberries), strawberry nursery stock, apricots, cherries, figs, walnuts, bananas, turf (commercial and residential) and ornamentals (commercial and residential).

[2] I subsequently amended the Suspension Order to clarify that I did not intend to unconditionally suspend the use of DBCP on strawberry plants which are being grown as transplants or nursery stock and which are not allowed to fruit until after being transplanted (43 FR 23649, May 31, 1978).

Products Containing DBCP (the "RPAR Notice") (42 FR 48026, September 22, 1977), and noted that the RPAR process was designed to gather information about a problem pesticide and to make a decision concerning it in an open manner allowing maximum participation by all interested groups.[3] Accordingly, I found it to be in the public interest to continue the RPAR review of DBCP and I specifically stated that the decisions reached as the result of that RPAR review could form the basis of an amendment to the Original Section 6(b)(1) Notice. I therefore delegated to the Assistant Administrator for Toxic Substances the authority and responsibility: (1) For reviewing the evidence submitted in the RPAR process, Agency staff evaluations of that evidence, and Agency staff recommendations concerning possible amendments to the Original Section 6(b)(1) Notice, and (2) for issuing, filing and serving, if appropriate, an amended notice under Section 6(b)(1) of FIFRA.

On September 6, 1978, the Assistant Administrator for Toxic Substances issued at the conclusion of the RPAR review of DBCP an Amended Notice of Intent to Cancel Registrations of Pesticide Products Containing DBCP, and Statement of Reasons (the "Amended section 6(b)(1) Notice") (43 FR 40911, September 13, 1978). The Amended section 6(b)(1) Notice adopted as its statement of reasons and underlying support document the final Position Document issued at the conclusion of the RPAR. Based on the conclusions in the final Position Document that "DBCP presents a significant risk of cancer to human beings who are exposed to the chemical" (p. 16) and that "DBCP poses a risk of testicular toxicity, as evidenced by an increased incidence of reduced sperm counts, to males who are exposed to the chemical" (p. 31), the Amended section 6(b)(1) Notice proposed to: (1) Unconditionally cancel 23 uses of DBCP (the 19 unconditionally suspended uses plus 4 other non-commercial vegetable uses); and (2) conditionally cancel all remaining uses of DBCP (i.e., cancel them *unless* the terms and conditions of registration for those uses are modified to reflect the specific restrictions set forth in the Amended section 6(b)(1) Notice). With respect to the unconditionally cancelled uses, one registrant timely objected to and requested a hearing with respect to the tomato use and a section 6(b)(1) hearing concerning the tomato use is currently in progress.[4]

With respect to the conditionally cancelled uses, a coalition of farmworkers, migrant farmworker organizations and public interest groups objected that the restrictions proposed in the Amended section 6(b)(1) Notice were inadequate to protect farmworkers against various risks posed by those uses of DBCP, and contended that they should have been unconditionally cancelled. Because the Assistant Administrator for Toxic Substances determined after careful review that the farmworkers' objections were not frivolous and warranted serious consideration (especially since they relied in part on new data which were not available for review or analysis during the RPAR), he issued a Notice of Intent to Hold a Hearing to Determine Whether or Not the Registrations of Certain Uses of Pesticide Products should be cancelled, and Statement of Issues (the "section 6(b)(2) Notice") (44 FR 11822, March 2, 1979).[5] In the section 6(b)(2) Notice, he directed that a hearing be held under section 6(b)(2) of FIFRA to consider the matters raised by the farmworkers' objections and to determine whether or not to unconditionally cancel the uses which he previously proposed to conditionally cancel, or whether to conditionally cancel them subject to modifications to the terms and conditions of registration different (that is, more restrictive) than those which he proposed in the Amended section 6(b)(1) Notice. He also made it clear that at the conclusion of the section 6(b)(2) hearing, all uses covered by it (i.e, the uses proposed to be conditionally cancelled by the Amended section 6(b)(1) Notice) can be *unconditionally* cancelled, and a final order of unconditional cancellation can be issued for some or all of such uses.

The Assistant Administrator referred the section 6(b)(2) Notice to the Secretary of the Department of Agriculture (USDA) and to the Agency's Scientific Advisory Panel (SAP) for review and comment on the actions proposed in it, and later indicated that he would publish their comments, together with his responses to those comments, in the **Federal Register** and would make such changes in the section 6(b)(2) Notice as he determined to be appropriate in light of those comments and his responses. The Assistant Administrator has recently received the comments of both USDA and SAP, but has not yet responded to them.

IV. The Present Suspension Action

As discussed above, the Suspension Order currently in effect reflects decisions based on information available to me at the time that I issued it concerning the likelihood of DBCP residues occurring in the edible portions of treated crops, and on "my preliminary conclusion that applicator exposure can be controlled at least on an interim basis by imposition of appropriate restrictions" (42 FR at 48916). With respect to the food residue issue, however, I specifically indicated:

> "From available data the Agency is presently unable to reach a conclusion that there is a likelihood of DBCP residues in or on the remaining [i.e., conditionally suspended] food crops for which there are registered uses. However, further consideration will be given to those crops as additional residue information becomes available." (42 FR at 48917)

Moreover, with respect to the issue of applicator exposure from the use of DBCP on the conditionally suspended uses, I specifically stated that:

> "* * * I emphasize that my finding that these risk reduction methods [i.e., the restrictions imposed by the conditional suspension] adequately reduce pesticide applicator exposure is a tentative finding. If as a result of further review of this problem it appears that these measures are not providing adequate protection to applicators, other remedies including suspension and cancellation of all uses are available and can be implemented." (42 FR at 48916)

In other words, I made it clear at the time of suspension that if new or additional information were to become available and were to indicate that the use of DBCP even under the terms of the conditional suspension continued to pose risks to consumers or applicators, that I could and would take additional suspension actions in order to prevent any imminent hazard presented by such use.

Unfortunately, the Agency has received information since the date of the Suspension Order which indicates that the conditional suspension action is not adequate to satisfactorily reduce the risks associated with continued use of

[3] The RPAR process is set out in 40 CFR 162.11.

[4] On April 16, 1979, the Agency's Judicial Officer issued an Accelerated Decision in FIFRA Docket Nos. 401 *et al.* in which he affirmed in its entirety an order of the presiding Administrative Law Judge which denied the registrant's motion to amend its objections to include the other 22 unconditionally cancelled uses of DBCP. Those 22 uses are now unconditionally cancelled as a matter of law because no hearing was timely requested as to them within the statutory deadline.

[5] On April 9, 1979, the Agency's Judicial Officer rendered a Decision on Interlocutory Appeal in FIFRA Docket Nos. 401 *et al.* in which he ruled that the farmworkers' objections to the conditional cancellation actions were improper under section 6(b)(1) of FIFRA and could not be employed to expand the scope of relief which could be granted at the conclusion of the section 6(b)(1) hearing.

DBCP even on an interim basis. Briefly summarized, this new information shows that the Agency's previous assumptions concerning the manner in which treated crops may become contaminated with residues of DBCP are no longer valid, and that residues may occur even in crops which are not grown in contact with or in close proximity to treated soil; that treatment with DBCP may result in contamination of water supplies, including drinking water sources, with residues of DBCP; and that application of DBCP may result in ambient air levels of DBCP at sites outside the application area and may result in ambient air levels of DBCP at the site of application several days after application. Because of this information, I have undertaken a review of both the risks and benefits associated with the use of DBCP during the next year[6] in order to determine whether or not additonal regulatory actions are warranted.

A. *Risks.* With respect to risks, my determination concerning the adverse human health effects associated with exposure to DBCP—namely, carcinogenicity and testicular toxicity—has not changed since the time of the Suspension Order. However, my perception of the potential exposure to the population at large, and to farmworkers in particular, from continued use fo DBCP has changed dramatically.

First, the Agency's earlier assumptions concerning the reasons why DBCP residues apparently occurred in some crops but not in others now appear to be faulty. Specifically, Agency chemists had earlier hypothesized that DBCP itself is not absorbed and translocated within growing plants; rather, they hypothesized that residues of DBCP in crops grown in DBCP-treated soil probably result from the crops' contact with the treated soil, from volatilization of DBCP from the treated soil and condensation or absorption on crop surfaces in close proximity to treated soil, or from deposition of DBCP on the crop itself during application. They further concluded that root crops, which bear the highest residues, may be exceptions to this hypothesis, especially in light of the demonstrated ability of carrots to absorb organochlorine pesticides from the soil. Based on actual data from supervised trials, or extrapolation of that data to other related crops or crops with similar growing characteristics, the chemists identified crops in which residues could be expected to occur and crops as to which they were unable to reach such a conclusion.

Subsequently, the Agency received new residue data developed by the California Department of Food and Agriculture (CDFA), using a new and more sensitive analytical methodology than was previously available, indicating that residues of DBCP in fact occurred in several tree and vine crops—crops which the Agency had not predicted would have DBCP residues because the fruit was not grown in proximity to the treated soil, and because it was unlikely that DBCP would be deposited on the fruit during application. Based on an evaluation of that data, the Agency chemists determined that their previous conclusion that DBCP residues did not occur in certain crops was no longer appropriate, and that it had to be assumed that DBCP residues could occur in *all* treated crops. In other words, I can no longer assume that crops treated with DBCP under the terms of the conditional suspension action will *not* be contaminated with DBCP residues, and I must assume that there is potential ingestion exposure to DBCP for the population at large from the consumption of any crop grown in soil treated with DBCP.

Second, I have received disturbing information which indicates that there may be exposure to DBCP for the population at large from the previously unsuspected source—contaminated drinking water. Recent investigations by California state officials have found DBCP in active groundwater wells at levels as high as 39 parts per billion (ppb), and preliminary results indicate that community water supply wells in counties where DBCP was previously used may be contaminated with levels of DBCP as high as 15 ppb—findings which are particulary troubling since the State of California has itself prohibitied all uses of DBCP since 1977. DBCP has also been found in wells in Arizona, and in at least one sample taken from wells in Hawaii. Although preliminary investigations by the Agency in the Southeast have not as yet revealed a similar pattern of DBCP water contamination, the possibility that a more thorough and complete sampling program (intergrating use history and other data) *will* find DBCP in drinking water in the Southeast cannot be discounted. Accordingly, I believe that it is too early to hypothesize as to why DBCP has only been found to date in the Southwest. Rather, because of the uncertainty as to the size of the population at risk, and because of the grave consequences to the health of that segment of the population which is exposed to DBCP in drinking water, I believe that prudence dictates that I make regulatory decisions based on the assumption that continued use of DBCP in accordance with the conditional suspension action may result in contamination of drinking water supplies.

Third, other data submitted by CDFA since the time of the Suspension Order indicates that the terms of the conditional suspension action may not adequately protect applicators, farmworkers and bystanders from exposure to DBCP resulting from its continued use. In particular, the data show that there are ambient air levels of DBCP in or around treated fields for longer periods of time following application than previously estimated (in some cases, several days); but under the conditional suspension action, there is no requirement that re-entry into a treated area (without protective clothing and respirators) be prohibited for any amount of time. The data also show that DBCP was detected in the air at some distance from the application site using both irrigation and chisel injection application techniques; but under the conditional suspension action, there is no requirment of a "buffer zone" for unprotected bystanders (i.e., a prohibition on application within the specified distances of areas populated or frequented by unprotected bystanders). Finally, the data show that residues of DBCP may be expected to occur on the bark and leaves of trees and vines in treated areas, as well as on the fruit surface and in the soil; but under the conditional suspension action, no protective measures are required to minimize or eliminate any dermal exposure to farmworkers who work in or who harvest in treated areas.

In summary, I find that there continues to be potential exposure to DBCP as the result of its continued use under the conditional suspension action—potential ingestion exposure to the population at large through residues in treated crops and through contamination of drinking water, and potential dermal and inhalation exposure to applicators, farmworkers and others who live or work in the vicinity of treated areas. I also recognize that the extent of this potential exposure, although real, is at the present

[6] I have determined that one year (rather than two) is an appropriate estimate of the amount of time necessary for completion of the cancellation proceedings, since as a result of the in-depth RPAR evaluation of the risks and benefits of all uses of DBCP and the subsequent referral to the SAP, the issues involved in this case are fairly well-defined, and the Agency is prepared to go forward with its case. In addition, a pre-hearing conference has already been held and the parties have been directed to begin their pretrial preparations.

unknown; and that more data and information are both desirable and necessary in order to make *final* regulatory decisions concerning the ultimate fate of the registrations of DBCP. In the absence of definitive information, however, and in light of the demonstrated potential for exposure, I must conclude that the continued use of DBCP under the terms of the conditional suspension poses a serious risk of adverse human health effects.

B. *Benefits.* I have examined the benefits associated with the continued use of DBCP for the approximate one year required for completion of the DBCP cancellation proceedings in order to decide whether they outweigh the risks of continued use during this period. Based upon the analysis prepared by Agency staff as part of the RPAR review of DBCP, I conclude that the unavailability of DBCP for the conditionally suspended uses for the duration of cancellation proceedings will potentially result in a loss of approximately $42 million in production losses and increased costs of alternative chemicals.

The uses of DBCP which were conditionally suspended fall into three major categories: uses where application is made before or at the time of planting; uses where application is made in established orchards or vineyards; and other miscellaneous or minor uses.

With respect to the first group of uses, where application is made before or at the time of planting—which includes cotton, soybeans, pineapples, and certain commercial vegetables (lima beans, snap beans, okra and southern peas)—the economic impact of the unavailability of DBCP for one year would be approximately $33.7 million. For cotton and soybeans, increased control costs of alternative chemicals would be about $2.6 million and $23.5 million respectively, but with only negligible impacts in terms of production losses. For pineapples, the increased control costs would be approximately $0.2 million and the production loss would be about $5.8 million (realized at the time of harvest in about two or three years). For the commercial vegetables, the increased control costs would be approximately $1.2 million and the production loss would be about $0.4 million.

With respect to the second group of uses, where application is made in established orchards or vineyards—which includes citrus, grapes, peaches and nectarines, almonds and plums—the economic impact of the unavailability of DBCP for one year would be approximately $8.5 million in production losses less saved chemical costs (which reflects the fact that there are no registered alternatives for these uses). Since application for use on these crops is made post-plant, and since the application cycle is generally on an every-third-or-fourth-year basis, the effect of unavailability of DBCP for one year would be to defer or stagger the application cycle. The approximate production losses (less saved chemical costs) attributable to that deferral are: peaches and nectarines—$6.9 million; citrus—$1.6 million; grapes—no impact; almonds—no impact; and plums—no impact.[7]

With respect to the remaining miscellaneous or minor uses, the economic impact of the unavailability of DBCP will not be significant, although based on available information it is not possible to quantify all of the impact. Very little if any DBCP is currently used domestically on apricots, cherries, figs, walnuts, bananas, vine berries, and strawberry nursey stock, although DBCP is registered for those uses. Data concerning the use of DBCP on ornamentals (including green house and nursery as well as residential uses) are not available, nor are they available for residential lawn use. The extent of usage of DBCP on commercial turf (such as golf courses) is similarly unknown, although it has been estimated that treatment costs with alternatives might be two to three times higher per acre than treat-costs with DBCP.

C. Conclusion

On balance, I find that the risks of continued use of DBCP during the pendency of cancellation hearings outweigh the benefits of continued use during that period, and I therefore announce my intention to suspend all uses of all registrations of pesticide products containing DBCP.

Finally, it is important to emphasis that I do not assume—nor do I intend to imply by my action today—that it will be impossible to develop terms and conditions of registration which will adequately reduce or eliminate the potential exposures which I have discussed above. Those issues will be resolved in the cancellation proceedings, and will undoubtedly rely upon and utilize data yet to be developed. However, because of the uncertainty surrounding the safety of continued use of DBCP under the conditional suspension action, and because of the serious health consequences of exposure to DBCP, I believe that use of DBCP should be prohibited pending the resolution of those issues.

V. Procedural Matters

Under section 6(C)(2) of FIFRA, this suspension action cannot take effect against any registration until the registrant has had an opportunity for an expedited hearing before the Agency on the question of whether an imminent hazard exists. This section explains how registrants may request an expedited hearing, the consequences of requesting or not requesting an expedited hearing, and the procedures which govern an expedited hearing in the event one is requested.

A. *Procedures for Requesting a Hearing*

(1) *Who May Request a Hearing and When the Request Should Be Made.* Any registrant of a DBCP product currently registered for any use which was conditionally suspended under paragraph 2 of the Suspension Order of October 27, 1977 may request a hearing on *specific registered uses* of its product within five (5) days after receipt of this notice. No person other than the registrant may request a hearing with respect to any use of any registration.

In order to be timely made, a request for a hearing from a registrant in writing or by telegram must be *received* by the Hearing Clerk within five (5) days after the registrant's receipt of this notice [40 CFR 164.121(a)(2)].

(2) *How to Request a Hearing.* Registrants who request a hearing must follow the Agency's Rules of Practice Governing Hearings (40 CFR, Part 164). These procedures specify, among other things: (1) that all requests for a hearing must be accompanied by objections that are specific for *each use* for which a

[7] These benefits figures do not include losses attributable to the unavailability of DBCP in California, where DBCP is already unavailable as the result of actions taken at the State level. Since I am not aware of any information which indicates that California intends to lift its ban in the forseeable future, analysis of the impacts of the short-term unavailability or DBCP may as a matter of fact properly and justifiably exclude consideration of the impacts in California. I do note, however, that if risks and benefits from use of DBCP in California were to be included for purposes of determining whether or not there is an imminent hazard, my conclusion would be the same. On the risk side, the population at risk from potential exposure to DBCP would increase substantically (in proportion to the amount of DBCP used in California), while the concomitant benefits from the use of DBCP in California would be approximately $101 million, attributable to the second group of uses (citrus—$8.6 million; grapes—$44.4 million; peaches and nectarines—$25.3 million; almonds—$15.1 million; plums—$7.8 million.) In that regard, the benefits figures for California are for losses estimated for the *third* year following the unavailability of DBCP, since the losses attributable to the first two years of unavailability have presumably already accrued as the result of State action. On balance, I would find that the risks of continued use of DBCP (including California) during the pendency of cancellation proceedings outweigh the benefits of continued use (including California) during that period.

hearing is requested [40 CFR 164.121(a) and 164.22] and (2) that all requests must be *filed* with the Office of the Hearing Clerk within the applicable five (5) days [40 CFR 164.121(a)]. *Failure to comply with these requirements will automatically result in denial of the request for a hearing.*

Requests for hearings must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

B. *Consequences of Filing a Hearing Request*

The statute provides that if a hearing is timely requested by a registrant within the five-day period, the hearing stage is to begin within five days after receipt of the request for the hearing, unless the registrant and the Agency agree that it shall begin at a later time. Hearings are subject to the provisions of subchapter II of Title 5 of the United States Code, except that the presiding officer need not be a certified hearing examiner. The presiding officer has ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who in turn has seven days to issue a final order on the issue of suspension.

C. *Consequences of Not Filing a Hearing Request*

Under the statutory scheme, if a registrant does not request a hearing as to its registration within the five-day period, a suspension order may be issued with respect to that registration, and such suspension order will *not* be reviewable by a court.

It is important to emphasize that the suspension action initiated by this notice will be implemented on a registration-by-registration basis. In other words, unless the *registrant timely* requested a hearing with respect to *its* registration, *that* registration will be subject to the issuance of a suspension order—*notwithstanding* that *other* registrants may have timely requested hearings with respect to *their* registrations (and notwithstanding that those other registrations may have identical registered uses). This registration-specific approach to the actions initiated by this notice will be strictly observed and no exceptions will be granted.

D. *Supplementary Procedures*

The Agency's rules of Procedure for expedited hearings are set forth at 40 CFR Part 164, Subpart C. I do not know if a hearing will be requested on these suspensions. If a hearing is requested, however, I am establishing the following procedures to supplement the existing regulations in governing its conduct.

(1) A deadline is being established for the completion of all hearing procedures and the rendering of a recommended decision under 40 CFR 164.121(j). That deadline is 60 calendar days from the first prehearing conference, which shall be held in accordance with the time requirements described below.

Deadlines for completing proceedings under FIFRA have been twice endorsed by the National Academy of Sciences [National Academy of Sciences, Decision Making in the Environmental Protection Agency, Vol. II, p. 84 (1977); National Academy of Sciences, Decision Making for Regulating Chemicals in the Environment, p. 30 (1975)]. In addition, Congress has demonstrated a concern for speedy action where suspensions based on a potential threat to human health are concerned. It has required a hearing on such a suspension to begin five days after it is requested and has allowed ten and seven days respectively for preparation of the initial and final decisions once the hearing is over [FIFRA section 6(c)(2)]. FIFRA was amended in 1975 to require consultation by the Agency with the Department of Agriculture and a scientific advisory panel before taking action in many cases; suspensions based on human health grounds, however, were exempted from those requirements to allow speedy action where speedy action was desirable [121 Cong. Rec. H 9895–96 (daily ed. Oct. 9, 1975); 121 Cong. Rec. Section 19820–21 (daily ed. Nov. 12, 1975)].

Deadlines for completing the hearing have been imposed in prior suspensions, including the earlier suspension of DBCP. See, also, *In re: Velsicol Chemical Co., et al.*, 41 FR 7552, 7553 (Feb. 19, 1976) [Notice of Intent to Suspend Heptachlor and Chlordane]. The requirements set forth in this order simply carry forward that practice.

(2) I am naming certain EPA employees to provide technical advice and assistance to the Administrative Law Judge who will preside at any hearing arising out of this notice. The Administrative Law Judge may consult these employees during the course of the hearing and in preparing his recommended decision, and he may allow these employees to question any witness who testifies at the hearing on behalf of any party. None of these employees is subject in the normal course of their duties to the supervision or direction of any employee or agent of the Agency who is a member of the Agency trial staff named below. See 5 U.S.C. Section 554(d)(2). These employees are identified in Appendix A.

Since 5 U.S.C. Section 554(d)(1) provides that those presiding at adjudicatory hearings may not "consult a person or party on a fact in issue [in the course of preparing their decision] unless on notice and opportunity for all parties to participate," neither myself nor my appellate staff (See below) will consult with the Administrative Law Judge or these Agency employees on any matters involving this case from the date of this notice until a recommended decision is issued.

(3) I am also designating an appellate staff to assist me in conducting an independent review of the questions presented on appeal of any recommended decision, and in preparing a final decision. Members of my appellate staff are also listed in Appendix A.

(4) The following Agency bureaus or divisions, and their staffs, are designated to perform all investigative and prosecutorial functions in this case: Office of the Deputy Administrator,[8] Office of Toxic Substances, the Office of General Counsel, and the Office of Enforcement.

From the date of this notice until any final decision, neither the Administrative Law Judge, the employees appointed to assist him, my appellate staff, or myself, shall have any *ex parte* contact with any trial staff employees, or any other interested person not employed by EPA, on any of the issues involved in this proceeding. However, persons interested in this case should feel free to contact any other EPA employee, including both trial staff and persons not explicitly named as assistants or appellate staff, with any questions they may have.

(5) The statute itself is silent on the question of intervention in expedited suspension hearings.

However, the Agency's Rules of Practice currently provide that "any person adversely affected" by the notice of intent to suspend may move to intervene in any hearing requested by a registrant, and they set out criteria governing the granting of such motions (40 CFR 164.121–[e]). Although the

[8] The Deputy Administrator may properly be included in the trial staff since the prohibitions of 5 U.S.C. Section 554(d) do not apply to "the agency". Her inclusion is necessary if guidance on general policy matters is to be available to the trial staff and to free a high agency official to talk to outside interested persons about the questions involved without the constraints otherwise imposed by the *ex parte* provisions of the APA and the Government in the Sunshine Act. The Deputy Administrator will take no part in the detailed work of preparing and presenting the Agency's case.

limiting "adversely affected" language as used in that section of the Rules of Practice does not have a statutory origin or basis, the Rules as written could be interpreted as precluding the intervention of persons who are not *technically* "adversely affected" by this notice but who have evidenced a high degree of interest and who have actively participated in the ongoing administrative proceedings on DBCP. Accordingly, I am directing that the opportunity to move to intervene in any hearing requested by a registrant be extended to "any interested person" as well as any person "adversely affected" by this notice. Such motions shall be subject to the existing provisions of 40 CFR 164.121–(e) concerning the time for their submission and the criteria for being granted.

(6) The scheduling of any hearing, particularly in its earlier stages, involves a balancing between the need to conduct an expeditious hearing and a concern that the hearing not proceed too far before the identity of those registrants requesting a hearing is established. I am therefore taking two steps in order to accommodate these concerns. First, I am hereby providing that service of this notice upon registrants may properly be made by means of federal "express mail," which guarantees delivery within 24 hours and which involves acknowledgement of receipt by the addressee. In this regard, the statute itself is silent on the question of how service of the notice upon registrants must be effected, although the Rules of Practice provide that it "shall either be personally served on the registrant or be sent to the registrant by registered or certified mail, return receipt requested" (40 CFR 164.120(b)). However, the underlying purpose of that section is to provide *the Agency* with either first-hand knowledge (after personal service) or documented evidence (by return receipt) of the *date* of receipt by the registrant—so that the Agency can accurately determine when the time for requesting a hearing has expired and when a suspension order may be issued and take effect. Relying exclusively upon these methods of service in the past, however, has proved to be both inefficient and unnecessarily time-consuming. Moreover, no registrant will be prejudiced if it is served by "express mail," since the statute measures a registrant's time for requesting a hearing from its *receipt* of the notice by *whatever* means.

Second, I am directing the Administrative Law Judge presiding at the hearing to convene the first prehearing conference within five days after (1) receipt by the Hearing Clerk of the last timely request for a hearing by a registrant or (2) 15 days after the issuance of this notice, whichever comes earlier. The 15-day maximum should ensure that all registrants wishing to participate in the hearing have been given ample time to file a hearing request after receiving notification of my suspension actions.

Dated: July 18, 1979.

Douglas M. Costle,

Administrator.

Appendix A

Technical Support Staff

Willert Smith,
Dr. Dennis L. Foerst,
Dr. Robert Kavolock.

Administrative Appellate Staff

Ronald L. McCallum,
Charles R. Ford,
Dr. Edwin H. Clark,
Ms. Mary Ann Massey,
Dr. Richard M. Dowd,
Dr. Stephen J. Gage.

[FR Doc. 79-22842 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1282-1; OPP 00100]

Information-Gathering Hearings on Pesticide Use in Arizona

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Announcement of EPA public hearings pursuant to section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (7 U.S.C. § 136s(b) (1976)) to gather information on the use of agricultural pesticides in the State of Arizona and potential adverse health effects to people residing adjacent to or near agricultural lands.

SUMMARY: EPA will hold three days of public hearings in Phoenix, Arizona, on September 6, 7, and 8, in the Adams Hotel, Navajo Room, Central and Adam, Phoenix, Arizona 85001. The hearing will take place from 9:00 a.m. to 5:00 p.m. each day, with an additional evening session between 7:00 p.m. and 10:00 p.m. September 6. All interested parties are invited to attend. Testimony may be presented orally, in writing, or both. The Agency anticipates allowing 15–20 minutes for oral presentations. The time limit may be adjusted at the hearing as appropriate depending on how many witnesses request to make presentations. There will be no limit to the length of written materials.

DATE: Persons desiring to present testimony should register by mail or telephone with the EPA Region IX office in San Francisco by August 31, 1979.

ADDRESS: Address all requests to present testimony or comments to Mr. Clyde Eller, Director, Enforcement Division, Region IX, EPA, 215 Fremont Street, San Francisco, California 94105. Written materials should be submitted as far in advance as possible to that address.

FOR FURTHER INFORMATION CONTACT: Mr. Clyde Eller, see mailing address above, telephone (415) 556–0102.

SUPPLEMENTARY INFORMATION:

Regulatory Framework

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to register pesticides in order to ensure that, when used in accordance with label directions or commonly recognized practice, they do not pose unreasonable adverse effects to humans or the environment. EPA is also charged with the responsibility for ensuring that pesticides are properly used in accordance with label directions.

EPA's responsibilities under the registration authorities of the law involve the pre-market clearance of each pesticide product destined for the domestic market. The applicant for product registration must submit a range of data on the potential hazards of the product to humans, wildlife, the environment and any other area the Administrator of EPA deems appropriate to make a judgement on the product's potential risk. In addition to broad areas of potential effects, registrants must supply data relating to the behavior of the product in the specific pattern of use when appropriate. For instance, in the case of pesticides to be applied by aircraft, the Agency typically requires information on the product's performance characteristics which affect its behavior in the environment, e.g., droplet size from varying kinds of nozzles and aircraft. Labels for these products must contain instructions for minimizing drift, e.g., prohibitions on application when the wind is above a certain velocity.

The EPA approved label is the Agency's primary tool for prescribing use conditions and restrictions. This is so because: (1) the label is the most direct communication link between EPA and the pesticide user and (2) label requirements are legally enforceable. However, if EPA finds that unreasonable adverse effects from a pesticide's use occur even though label directions are properly followed, the

Agency has several additional regulatory options. It could, for example, require label changes to mitigate the hazard. Or, the Agency could issue specific use regulations through the rulemaking process to deal with potential unreasonable adverse effects. This power is conveyed by section 3(d)(1)(C)(ii) of the law which gives the Agency the authority to institute other regulatory restrictions in addition to those imposed by the label. Thus, further restrictions above and beyond those on the label, e.g., establishing buffer zones for all aerial application in specific areas can be imposed if EPA believes such restrictions are necessary to prevent an unreasonable adverse effect.

EPA has had authority to enforce pesticide labels since 1972. In 1978, FIFRA was amended directing that enforcement of pesticide use violations shall be the primary responsibility of the States (Federal Pestice Control Act of 1978, Pub. L. 95–396, 92 Stat. 819 (1978)). According to the amended law, States which have a Cooperative Enforcement Agreement with EPA automatically have primary use enforcement responsibility. At present there are 38 such States and territories. EPA was also directed to review laws and procedures of States with applicator training and certification plans approved by EPA to determine whether they were eligible for primary use enforcement responsibility. There are 13 States in this category.

Under the primary use enforcement provisions of the law (sections 26 and 27), any report to EPA of pesticide misuse must be turned over to the appropriate State agency for initial investigation and prosecution. States with primary enforcement responsibilities can act under their own law in pursuing misuse complaints, or turn cases over to EPA for prosecution under FIFRA. If the State has not commenced appropriate enforcement action 30 days after EPA refers a complaint, EPA is authorized to act on its own under FIFRA. The law also authorizes EPA to take enforcement action in emergency situations in which the State is unwilling or unable to respond. EPA will be developing regulations to implement the primary use enforcement provisions of the Act, and to outline in greater detail the circumstances in which EPA would rescind a State's primary use enforcement responsibility. In the meantime, it is clear that the ultimate responsibility for ensuring that appropriate enforcement action is being taken by the States or EPA to protect the public and the environment from the misuse of pesticides rests with EPA .

The State agency responsible for writing all rules, regulations and orders necessary to carry out the Arizona law governing agricultural use pesticides is the Pesticide Control Board, which is established by State law (Arizona Rev. Stat. Ann. § 3–371 *et seq.*). The Board is therefore responsible for the investigation and prosecution of pesticide use violations involving agricultural pesticides in Arizona. The Board is composed of 13 members, 12 of whom are appointed by the Governor. [NOTE: There is also an Arizona Structural Pest Control Board, which is responsible for administering and enforcing the Arizona Structural Pest Control law and rules and regulations (Ariz. Rev. Stat. Ann. § 32–2301 *et seq.*). EPA has a Cooperative Enforcement Agreement with the Structural Pest Control Board. The focus of this hearing concerns pesticides used in agricultural production, not those products used for structural pest control].

The FIFRA (section 21(b)) also authorizes the Administrator of EPA to solicit the views of all interested persons through public hearings in carrying out his responsibilities under the Act as he deems appropriate.

Background for Hearing

During recent hearings before the Subcommittee on Oversight and Investigations of the Interstate and Foreign Commerce Committee of the U.S. House of Representatives, chaired by the Honorable Bob Eckhardt, citizens of Scottsdale, Arizona, complained that the residents living in a housing development adjacent to agricultural lands were suffering adverse health effects from pesticide spraying. They also charged that they had been frustrated for many years in their attempts to get local, State and Federal officials to take action to prevent involuntary exposure to pesticides and to investigate their allegations concerning adverse health effects.

In 1978 legislation amending FIFRA, Congress directed EPA to conduct a study of methods of pesticide application, with particular emphasis on the advisability of ultra-low volume (higher concentration) pesticide application. As a result of this study, and our pledge to Congress to further study methods of application this year, EPA is particularly interested in the experience in Scottsdale as it concerns questions of pesticide drift and other aspects of aerial application.

Because of previous complaints from residents of the Scottsdale area, the State Pesticide Control Board and Department of Health asked EPA last year to conduct a monitoring program to attempt to determine whether residents were being exposed to pesticides, and if so, at what levels. Therefore, the Texas Tech University School of Medicine, Epidemiological Study Program, is conducting for EPA and in cooperation with State agencies a human and environmental monitoring program beginning this month in the Scottsdale and Yuma areas of the State. Human blood and urine samples will be taken from residents of housing developments adjacent to agricultural lands, residents of the Salt River Indian Reservation, and pesticide loaders and applicators. In addition, air and soil samples will be taken in residential areas on days of pesticide application.

This monitoring program should yield valuable information concerning the question of whether pesticides being applied to agricultural lands result in human exposure in adjacent residential areas. However, this study is but one element in developing a full picture of the potential exposure situation in Arizona and does not directly address the proper regulatory response to that situation. Thus, EPA believes that public hearings are necessary to help gather information from a wide variety of additional sources to reach valid conclusions about the possible human health effects problems that may be resulting from application of agricutural pesticides in Arizona.

Pertinent Facts

Based upon the testimony presented during the Congessional hearings and information from EPA's Region IX office, the Agency understands the pertinent facts to be:

1. Residents in the Scottsdale area are complaining of adverse health effects which they allege result from pesticide applications on near-by farm lands.

2. A wide range of pesticides is being applied to cotton fields adjacent to residential areas, including pre-emergent herbicides in the spring, insecticides in the summer, and desiccants and defoliants at the time of harvest.

3. The land on which the cotton is grown is located on the Salt River Indian Reservation and is leased to private growers, thereby raising jurisdictional questions concerning enforcement responsiblity for pesticide applications on that land.

4. The State Pesticide Control Board held public hearings in 1978 to review the Scottsdale complaints, and concluded that the primary problem was

one of noxious odors from certain pesticides containing mercaptan. The Board has, therefore, taken action to require a buffer zone for pesticides containing mercaptan between the agricultural lands and the residential areas.

5. Some citizens do not think that the actions taken to date adequately protect them from the effects of agricultural pesticides used near their homes.

6. There have been similar complaints of adverse health effects from the Yuma and Safford areas.

Issues for the Hearing

There are 7 primary issues on which EPA wishes to focus in these public hearings:

1. Is there a human health problem for residents of Arizona who live adjacent to areas where agricultural pesticides are being applied due to involuntary exposure to such pesticides?

2. If so, is the problem occurring:

(a) Despite proper application of registered pesticides according to label directions or

(b) As a result of careless or negligent application of pesticides, i.e., misuse?

3. What remedies are available under State and Federal law for dealing with the problem?

4. Is the State empowered to deal with the problem effectively, and are the State and the Federal Governments using their separate or collective powers properly?

5. Since some of the pesticide applications of concern occurred on Indian Reservation land leased for agricultural purposes, who has jurisdiction to undertaken enforcement action under FIFRA on such lands?

6. Are there special conditions in Scottsdale, i.e., the meteorological conditions, land use regulations, pattern of pesticide use, etc., which has created a unique problem, or is the experience there one which could be expected in other areas of the State or nation?

7. What kinds of regulatory standards should EPA promulgate to implement the primary use enforcement responsibility provisions that were recently added to FIFRA (sections 26 and 27)?

To obtain information bearing on these broad questions, it would be helpful to understand the specific pesticide use practices and weather conditions in the Scottsdale area and similar areas in the State. Therefore, the Agency would appreciate testimony from individuals who can speak to actual pesticide use practices (methods, types, and frequency of application); known or suspected effects from pesticide spraying; typical weather and other meteoroligcal or geographical conditions, including information on prevailing winds and possible temperature inversions; and experience with the actual working of the pesticide laws in the State and pesticide use enforcement actions.

EPA welcomes testimony of concerned citizens, physicians and other health scientists, toxicologists, agronomists, pesticide applicators, State, local, and tribal officials, grower organizations, and all other interested parties who can contribute to the collection of a full and fair range of information bearing on the issues outlined in this notice.

(Section 21(b), FIFRA as amended (7 U.S.C. § 136 et seq.).)

Dated: July 19, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances,

Paul De Falco, Jr.,

Regional Administrator, EPA Region IX.

[FR Doc. 79-22943 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20274; FCC 79-408]

Intergovernmental Maritime Consultative Organization: Preparation of Recommended Operational Standards Applicable to Equipment Mandatorily Fitted Aboard Vessels Subject to the Safety of Life Sea Convention; Fifth Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Fifth Notice of Inquiry.

SUMMARY: Notice of Inquiry concerning proposed recommendations to the Safety of Life at Sea Convention by the Intergovernmental Maritime Consultative Organization. The Notice provides for comment on operational standards for mandatorily fitted shipboard radio equipment.

DATES: Comments must be received on or before August 20, 1979, and Reply Comments must be received on or before August 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kemp J. Beaty, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: July 3, 1979.

Released: July 16, 1979.

In the matter of Intergovernmental Maritime Consultative Organization: Preparation of Recommended Operational standards applicable to equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea Convention, Docket No. 20274.

1. The Commission is issuing this Notice as a means to inform the public and to obtain comments of interested persons in regard to action by the Intergovernmental Maritime Consultative Organization (IMCO), through its Maritime Safety Committee (MSC) and Subcommittee on Radiocommunications, to develop operational standards applicable to radio equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea Convention (SOLAS).

2. The Subcommittee on Radiocommunications established a Working Group on Operational Standards which holds its meetings concurrently with scheduled meetings of the subcommittee. The working group is charged with the responsibility of preparing operational standards applicable to radio equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea Convention. These operational standards, when adopted by the Subcommittee on Radiocommunications and approved by the Maritime Safety Committee, will take the form of recommendations associated with the SOLAS Convention.

3. The attached Appendix is the Subcommittee's draft of operational standards for radiotelephone alarm signal generators* operating on 2182 kHz. In view of the Commission's recent action in Docket 21089 (Report and Order; Released March 23, 1979; FCC 79-162; 44 FR 18501), which requires the fitting of a radiotelephone alarm signal generator on all vessels subject to Part II of Title III of the Communications Act or those vessels subject to the Safety of Life at Sea (SOLAS) Convention by January 1, 1980, we feel that the public should be made aware of IMCO's recommended standards for these alarm generators. While the IMCO standards are not mandatory, the Commission is of the opinion that it should be guided by these operational standards in future rulemakings concerning this type of equipment. The public's comments are invited in this regard.

4. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone (202) 632-7175.

*A radiotelephone alarm signal generator is a device connected to a radio transmitter which, when activated, transmits two alternating tones to alert other vessels and coast stations of a distress situation.

5. In view of the foregoing, a Notice of Inquiry is hereby adopted. Authority for this action is contained in Sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 20, 1979, and reply comments on or before August 30, 1979. All relevant and timely comments and reply comments will be considered by the Commission before further action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix.—Operational Standards for Shipborne Radio Equipment; Provisional Draft Operational Standards for Radiotelephone Alarm Signal Generators

1. *Introduction*

The radiotelephone alarm signal generator should, in addition to meeting the requirements of the Radio Regulations, comply with the following operational standards.

2. *General*

The radiotelephone alarm signal generator should preferably be an integral part of the radiotelephone transmitter, but may be a separate device.

3. *Frequency duration of tones*

3.1 The frequency of both the 1300 Hz and 2200 Hz tones should be maintained within a tolerance of ± 1.5 per cent.

3.2 The duration of each tone should be 250 milliseconds and be maintained within a tolerance of ± 1.0 milliseconds.

3.3 The interval between successive tones should be as short as possible but should not exceed 4 milliseconds.

4. *Modulation*

4.1 The output of the device *should be* sufficient to modulate the associated transmitter in the case of A3/A3H classes of emission to a depth of at least 70 percent and for an A3J class of emission to within 3dB of the rated output power (p.e.p).

5. *Controls and indicators*

5.1 All controls should be of such size as to permit normal adjustment to be easily performed. The function and the setting of the controls should be clearly indicated.

5.2 The number of controls available at the exterior of the device should be the minimum necessary for satisfactory and simple operation. The device should be so designed as to prevent actuation by mistake.

5.3 The device should be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress message.

5.4 Means should be provided to reduce to extinction any light output from the device which is capable of interfering with safety of navigation.

6. *Safety precautions*

6.1 Means should be provided, as appropriate, for earthing exposed metallic parts of the device but this should not cause any terminal of the source of electrical energy to be earthed, unless special precautions, to the satisfaction of the Administration, are taken.

6.2 As far as practicable, accidental access to dangerous voltages within the device should be prevented and an appropriate warning notice be affixed.

7. *Durability and resistance to effects of climate*

The device should continue to operate in accordance with the operational standards contained in this recommendation under the conditions of sea state, vibration, humidity and change of temperature likely to be expected on board ships.

8. *Power supply*

8.1 The device should continue to operate in accordance with the operational standards contained in this recommendation in the presence of variations of the power supply likely to be expected on board ships.

8.2 Provision should be made for protecting the device from the effects of excessive voltages, transients and reversal of the power supply polarity.

9. *Duration of alarm signal*

After activation, the device should automatically generate radiotelephone alarm signal for a period of not less than 30 seconds and not more than 60 seconds, unless manually interrupted.

10. *Alarm signal repeat*

After generating the radiotelephone alarm signal or after manual interruption the device should be immediately ready to repeat the signal.

11. *Activation of the radiotelephone transmitter*

Provision should be made such that, when the transmitter is operationally ready, the alarm signal generator will automatically switch the transmitter to the transmit condition at the start of the radiotelephone alarm signal and cause it to cease transmission at the conclusion of the signal.

12. *Aural monitoring*

The device should be provided with intergral means for aural monitoring of the radiotelephone alarm signal whether or not the associated transmitter is activated.

13. *Miscellaneous*

13.1 If the device is not an integral part of the radiotelephone transmitter, it should be provided with an external indication of manufacture, type and/or number.

13.2 Information should be provided to enable competent members of the ship's staff to operate and maintain the equipment efficiently.

[FR Doc. 79-22755 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. 21505; Report No. 1185]

American Broadcasting Cos., Inc. et al.; Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

July 18, 1979.

Docket or RM No.	Rule No.	Subject	Date received
21505	2, 74, and 78	Amendment of Parts 2 and 78 of the Commission's Rules and Regulations to expand the frequencies available for use by Cable Television Relay Service Stations and, Amendment of Parts 74 and 78 of the Commission's Rules and Regulations to set aside 13.15–13.20 GHz for usage by Television and Cable Television Relay Service Pickup Stations on a coequal basis and, An Inquiry to determine public interest and need to establish similar technical standards for both the Cable Television Relay Service and the Broadcast Auxiliary Service in the 12.7–13.20 GHz band.	
		Filed by Everett H. Erlick, Robert J. Kaufman, Mark D. Roth, James A. McKenna, Jr., Thomas N. Frohock and R. Michael Senkowski, Attorneys for American Broadcasting Companies, Inc.	July 5, 1979.
		Filed by Erwin G. Krasnow and Barry D. Umansky, Attorneys for National Association of Broadcasters.	July 5, 1979.
		Filed by Howard Monderer, Vice President and John F. Strum, Attorney for National Broadcasting Company, Inc.	July 6, 1979.

Docket or RM No.	Rule No.	Subject	Date received
PR 79-106	90.365 and 90.377	Amendment of Sections 90.365 and 90.377 of the Commission's Rules to change the co-channel mileage separation and frequency loading standards for conventional land mobile radio systems in the bands 806-821 and 851-866 MHz..	
		Filed by Richard E. Wiley, John L. Bartlett, Donald R. Bustion, Leonard Kolsky and Karl E. Nygren, Attorneys for Motorola, Inc.	July 2, 1979.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before August 8, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission
William J. Tricarico,
Secretary.

[FR Doc. 79-22757 Filed 7-23-79; 8:45 am]
BILLING CODE 6712-01-M

[Docket No. 78-144; Report No. 1184]

Iowa Power & Light Co. et al.; Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

July 13, 1979.

Docket or RM No.	Rule No.	Subject	Date received
CC78-144		Adoption of Rules for the Regulation of Cable Television Pole Attachments.	
		Filed by Curtis L. Ritland, Charles M. Meehan and Shirley S. Fujimoto, Attorneys for Iowa Power and Light Company.	July 2, 1979.
		Filed by Edward L. Friedman, Thomas M. Eichenberger and William J. O'Keefe, Attorneys for American Telephone and Telegraph Company.	July 2, 1979.
		Filed by Thomas C. Sheppard, Jr., Charles M. Meehan and Shirley S. Fujimoto, Attorneys for Monongahela Power Company.	July 2, 1979.
		Filed by Charles Moran, Charles M. Meehan and Shirley S. Fujimoto, Attorneys for American Electric Power Service Corporation.	July 2, 1979.
		Filed by Thomas J. O'Reilly, Attorney for United States Independent Telephone Association.	July 2, 1979.
		Filed by Richard M. Cahill, A. K. Wnorowski and Richard McKenna, Attorneys for GTE Service Corporation.	June 29, 1979.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before August 8, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-22756 Filed 7-23-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916. (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Alpha International (John Joseph Gonzalez II, dba), 30 Vesey Street, Suite 1800, New York, NY 10007.

Cargo International, Inc., P.O. Box 17096, Bldg., #690, Nashville, TN 37217, Officers: Carl E. Adams, Jr., President, Lena Jo Elam, Secretary, Hampton T. Davis, Director.

Continental Forwarding Incorporated, One World Trade Center, Suite 1509, New York, NY 10048, Officers: Franz Zinssmeister, President/Treasurer, Bernard Brady, Secretary.

Dated: July 18, 1979.

By the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-22716 Filed 7-23-79; 8:45 am]
BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

The Hellenic Mediterranean Lines Co. Ltd. and Touristik Union International GMBH KG, c/o The Hellenic Mediterranean Lines Co. Ltd., Pan Am Building—West Mezzanine, 200 Park Avenue, New York, New York 10017.

Dated: July 18, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-22715 Filed 7-23-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bancorp of Austin, Inc.; Formation of Bank Holding Company

Bancorp of Austin, Inc., Austin, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of Austin, Austin, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 18, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22732 Filed 7-23-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undo concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and request for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 17, 1979.

A. *Federal Reserve Bank of Philadelphia,* 100 North 6th Street, Philadelphia, Pennsylvania 19105:

First Pennsylvania Corporation, Ardmore, Pennsylvania (data processing and loan servicing activities; national): to engage, through its subsidiary, Fund/Plan Services, Inc., Philadelphia, Pennsylvania, in performing accounts receivable, accounts payable and billing services, and other similar services involving the storing and processing of financial data; and servicing loans and other extensions of credit. These activities will be conducted at an office located at 1118 Market Street, Philadelphia, Pennsylvania, and the area to be served is national.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 18, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22730 Filed 7-23-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 13, 1979.

A. *Federal Reserve Bank of Boston,* 30 Pearl Street, Boston, Massachusetts 02106:

CBT Corporation, Hartford, Connecticut (factoring company activities; national): to engage, through its subsidiary, Lazere Financial Corporation, New York, New York, or a subsidiary thereof, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit, including the purchasing of accounts receivable, such as would be made by a factoring company. The factoring company activities will be conducted from an office in New York, New York, and the area to be seved is national.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 18, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22731 Filed 7-23-79; 8:45 am]

BILLING CODE 6210-01-M

Blakely Investment Co.; Formation of Bank Holding Company

Blakely Investment Company, Griffin, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C.

1842(a)(1) to become a bank holding company by acquiring 34.23 percent of the voting shares of Commercial Bankshares, Inc., Griffin, Georgia, a registered multibank holding company controlling 100 percent of the voting shares of Commercial Bank and Trust Company, Griffin, Georgia, and 69.2 percent of the voting shares of Concord Banking Company, Concord, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 17, 1979.

Griffith L. Garwood,

Deputy Secrtary of the Board.

[FR Doc. 79-22729 Filed 7-23-79; 8:45 am]

BILLING CODE 6210-01-M

First Banc Group of Ohio, Inc.; Proposed De Novo Bank Management Consulting Activities

First Banc Group of Ohio, Inc., Columbus, Ohio, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* through its wholly owned subsidiary, First Banc Group Financial Services Corporation Columbus, Ohio, in providing bank management consulting advice to nonaffiliated banks concerning the following areas of bank activities: bank operations, systems and procedures; computer operations and mechanization; implementations of electronic funds transfer systems; site planning and evaluation; bank mergers and the establishment of new branches; cost analysis, capital adequacy and planning; product development, including specialized lending provisions; and marketing operations, including research, market development and advertising programs. These activities would be performed from the offices of Applicant's subsidiary located at 100 East Broad Street, Columbus, Ohio, and the geographic area to be served is the State of Ohio. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 17, 1979.

Board of Governors of the Federal Reserve System, July 17, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22728 Filed 7-23-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: AGS Properties is granted early termination of the 30-day period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Monumental Properties Trust. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by AGS Properties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 11, 1979.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-22719 Filed 7-23-79; 8:45 am]

BILLING CODE 6750-01-M

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: The Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice granted early termination of the 30-day waiting period required by law and the premerger notification rules to Interstate Properties with respect to its acquisition of certain voting securities of Vornado, Inc. Notice of this action was published in the **Federal Register** on June 26, 1979, at page 37334. The effective date of the grant of early termination should have appeared as "June 15, 1979" instead of "December 21, 1978." Because of this error, the effective date is accordingly changed to read "June 15, 1979.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the

Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such transactions. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require the Commission to publish notice of this action in the Federal Register. Such notice was published on July 26, 1979 at page 37334 with respect to the acquisition of certain voting securities of Vornado, Inc. by Interstate Properties. The notice however incorrectly reported the effective date of the early termination of the 30-day waiting period. Because of this error, the effective date is corrected to read June 15, 1979.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-22720 Filed 7-23-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79N-0125; DESI 9435]

Chloroprocaine Hydrochloride Injection With and Without Preservative: Drugs for Human Use; Drug Efficacy Study Implementation; Announcement

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the results of the efficacy review of chloroprocaine hydrochloride injection and the conditions for marketing the drug products for the indication for which they are regarded as effective. The drug products are local anesthetics.

DATES: Supplements to approved NDA's due on or before September 24, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 9435, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B03, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 9, 1966 (31 FR 9426), FDA asked each holder of a new drug application that became effective before October 10, 1962, to submit reports containing the best data available in support of the effectiveness of each such product for the claimed indications. The agency needed that information to determine, with the assistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962.

Because Pennwalt Corp., the sponsor of the following drug products, did not submit such information, the drug products were not reviewed by NAS-NRC.

NDA 9-435; Nesacaine 1 and 2 percent containing chloroprocaine hydrochloride with a preservative; and Nesacaine-CE 2 and 3 percent containing chloroprocaine hydrochloride; Pennwalt Prescription Products, Division Pennwalt Corp., 755 Jefferson Rd., Rochester, NY 14603.

On October 30, 1972, and April 13, 1973, Pennwalt submitted data consisting of 27 reprints from the literature. The Agency has reviewed the data and found that they provide substantial evidence of effectiveness. This notice announces that conclusion and the conditions under which such drug products may be marketed.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufacturers or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indications in the labeling conditions below.

B. *Conditions for approval and marketings.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

Chloroprocaine hydrochloride 1% and 2% (with or without preservatives)

For the production of local anesthesia by infiltration and regional nerve block.

Chloroprocaine hydrochloride 2% and 3% (without preservatives only)

For the production of local anesthesia by caudal or epidural block.

3. *Marketing Status.* a. Marketing of such drug products that are the subject of a new drug application approved before October 10, 1962, may be continued provided that, or on or before September 24, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to

provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such products. Pursuant to 21 CFR 320.21 the application to include evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing prior to approval of a new drug application will subject such products, and the persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: July 17, 1979.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79–22600 Filed 7–23–79; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79N–0029; DESI 5887]

Streptomycin Sulfate for Parenteral Use: Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice reclassifies streptomcyin sulfate for parenteral use to lacking substantial evidence of effectiveness for the treatment of acute gonorrhea. The indication for acute gonorrhea is no longer allowable in the labeling of streptomycin sulfate. The drug is a bactericidal antibiotic in therapeutic dosage.

DATE: Petitions due on on before September 24, 1979.

ADDRESS: Petitions should be identified with the reference number DESI 5887 and directed to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 5887), published in the **Federal Register** of May 21, 1969 (34 FR 7997), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on streptomycin sulfate preparations for parenteral use. Labeling guidelines for these preparations were also given in the notice.

The notice classified parenteral streptomycin sulfate as effective in the treatment of acute gonorrhea (*Neisseria gonorrhoeae*). Since that publication, a study was conducted by Maxwell Finland et al. concerning the susceptibility of recent clinical isolates of common bacterial species to amikacin in comparison with their susceptibility to four other widely used aminoglycoside antibiotics, one being streptomycin. The results of the study indicated that about one-half of the strains of *N. gonorrhoeae* were resistant to streptomycin.

Based on these findings and the fact that streptomycin is not among the drugs recommended by the Center for Disease Control (CDC) of the Department of Health, Education, and Welfare for the treatment of gonorrhea, the Director of the Bureau of Drugs finds it appropriate to amend the May 21, 1969 notice by reclassifying streptomycin sulfate for parenteral use to lacking substantial evidence of effectiveness for the treatment of acute gonorrhea. Reprints of the Finland study and the CDC "Recommended Treatment Schedules on Gonorrhea, 1974" have been placed on file with the Hearing Clerk (address given above), and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Preparations containing streptomycin sulfate are subject to antibiotic certification procedures under section 507 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 357.

Batches of such drugs with labeling bearing indications for which substantial evidence of effectiveness is lacking are no longer acceptable for certification or release.

Any person who will be adversely affected by the deletion from labeling of the above indication for which the drug has been reclassified to lacking substantial evidence of effectiveness may, by August 23, 1979, petition for the issuance of a regulation providing for certification of the drug for the reclassified indication. The petition must be supported by a full factual and well documented medical analysis which shows reasonable grounds for the issuance of a regulation.

A petition for issuance of a regulation should be filed (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration (HFA–305).

The notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: July 12 1977.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79–22601 Filed 7–23–79; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79M–0168]

Meadox Medicals, Inc.; Premarket Approval of Meadox Dardik Biograft for Peripheral Vascular Surgery

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Meadox Dardik Biograft for Peripheral Vascular Surgery, sponsored by Meadox Medicals, Inc., Oakland, NJ. FDA approved the device in a letter to the sponsor dated January 15, 1979. After reviewing the Cardiovasculor Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 23, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be addressed to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK–402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: The sponsor, Meadox Medicals, Inc., Oakland, NJ, submitted an application for premarket approval of the Meadox Dardik Biograft for Peripheral Vascular

Surgery to FDA on May 22, 1978. The application was reviewed by the Cardiovascular Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On January 15, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(g)) authorizes any interested person to petition for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition must be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petition must designate the form of review that the petitioner requests (hearing or independent advisory committee) and must be accompanied by supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition by notice published in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 23, 1979 file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: July 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22734 Filed 7-23-79; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Cause and Prevention Scientific Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cause and Prevention Scientific Review Committee, National Cancer Institute, August 17, 1979, Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20205. The meeting will be open to the public on August 17, from 9:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 17, from 9:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commerical property such a patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301-496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Eugene M. Zimmerman, Executive Secretary, National Cancer Institute, Westwood Building, Room 826, National Institutes of Health, Bethesda, Maryland 20205 (301-496-7575) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.393, National Institutes of Health)

Dated: July 17, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-22739 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1784 (N-063.2)]

Battle Mountain District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Battle Mountain District Grazing Advisory Board will he held on August 29, 1979. The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office at 2nd and Scott Street, Battle Mountain, Nevada.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) The expenditure of range betterment and advisory board funds for range improvements; (3) A review of the current policy and program relating to allotment management plans including the ongoing and future grazing environmental statement effort; (4) Discussion of the board's future involvement in the allotment management plan program; (5) Election of officers and; (6) The arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on August 29, 1979 or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2nd and Scott Street, Battle Mountain, Nevada 898209 by August 24, 1979.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 12, 1979.

Gene Nodine,

District Manager.

[FR Doc. 79-22744 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-84-M

[U-24133]

Utah; Order Providing for Opening of Public Lands

July, 13, 1979.

In exchange of lands made under provisions of Section 8 of the Act on June 28, 1934, as amended (48 Stat. 1272; 43 U.S.C. 315g), the following described lands were reconveyed to the United States:

Salt Lake Meridian, Utah

T. 40 S., R. 4 W.,
Sec. 26, SE¼SW¼, W½SE¼;
Sec. 35, NE¼NW¼.

The areas aggregate 160 acres.

The mineral rights in these lands were reserved and are not affected by this order. These lands were obtained for retention in public ownership to enhance the management of the area for multiple use purposes.

The lands shall be open to operation of the public land laws generally at 10:00 a.m. on August 15, 1979, subject to valid existing rights and the requirements of applicable law. Inquires concerning the lands should be addressed to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah, 84111.

William G. Leavell,

State Director.

[FR Doc. 79-22780 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Atlantic Ridley Sea Turtles: Emergency Exemption; Issuance

On July 19, 1979, a memorandum waving the 30-day public comment period was issued to the Regional Director, U.S. Fish and Wildlife Service, Region 2, authorizing emergency actions to enhance the survival of Atlantic ridley sea turtles (*Lepidochelys kempi*). This waiver was granted to allow the possible import and re-export of the sea turtle hatchlings for release beyond the oil slick resulting from the PEMEX Ixtoc I well blowout. There is impending danger of potential losses should the sea turtles encounter the oil slick.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist for the entire population of Atlantic ridley sea turtles at Rancho Nuevo, Mexico, and that the lives and habitat of these sea turtles are threatened and no reasonable alternative is available to the applicant.

A copy of the application, permit, and waiver are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia 22203. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended.

Dated: July 19, 1979.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-22823 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species: Applicant: Collections Management, New York State Museum and Science Service, Room 962 EBA, Albany, New York 12234; PRT 2-4347.

The applicant requests a permit to export and re-import museum specimens of endangered and threatened wildlife and plants that have already been accessioned into the museum's collection on a noncommercial loan basis for scientific research. The applicant also requests authorization to salvage dead specimens of endangered or threatened wildlife found in the field: Applicant: Dept. of Veterinary Anatomy, Texas A & M University, College Station, Texas 77843; PRT 2-4349.

The applicant requests a permit to purchase in interstate commerce four cotton-topped marmosets (*Saquinus oedipus*) from Dr. James Porter, South American Primates, Inc., Miami, Florida, for enhancement of propagation and scientific research: Applicant: Louisiana Purchase Gardens and Zoo, P.O. Box 123, Monroe, Louisiana 71201; PRT 2-4364.

The applicant requests a permit to purchase in interstate commerce one male captive-born Diana leaf monkey (*Cercopithecus diana diana*) from the Washington Park Zoo, Portland, Oregon, for enhancement of propagation: Applicant: Woodland Park Zoological Gardens, 5500 Phinney Ave. North, Seattle, Washington 98103; PRT 2-4366.

The applicant requests a permit to import in the course of foreign commerce one male captive-born liontailed macaque (*Macaca silenus*) from the Metropolitan Toronto Zoo, Ontario, Canada, for enhancement of propagation.

Dated: July 17, 1979.

Donald G. Donohoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-22824 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 13, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments of a request for additional time to prepare comments should be submitted by August 3, 1979.

Charles A. Herrington,

Acting Keeper of the National Register.

ARIZONA

Pima County

Tucson, *Old Library Building*, University of Arizona campus.

Pima County

Tucson, *Wrightstown Ranch*, 1690 N. Harrison Rd.

IDAHO

Ada County

Boise, *Hopffgarten House*, 1115 W. Boise Ave.
Boise, *McCarthy, Judge Charles P., House*, 1415 Fort St.
Boise, *O'Farrell, John A., House*, 420 W. Franklin St.

Bannock County

Lava Hot Springs, *Riverside Inn*, 112 Portneuf Ave.

Bingham County

Blackfoot, *North Shilling Historic District*, N. Shilling Ave.
Blackfoot, *Standrod Bank (Brown-Hart Store Building)*, 59 and 75 NW. Main St.

Bonneville County

Ririe vicinity, *Shelton L.D.S. Ward Chapel*, SW of Ririe on Shelton Rd.

Canyon County

Caldwell, *North Caldwell Historic District*, 9th, Albany and Belmont Sts.

Nez Perce County

Lewiston, *Lewiston Methodist Church*, 805 6th Ave.

Oneida County

Malad, *Evans, D. L., Sr., Bungalow*, 203 N. Main St.

Shosone County

Prichard vicinity, *Magee Ranger Station*, W of Prichard.

Twin Falls County

Rock Creek vicinity, *Stricker Store and Farm*, N of Rock Creek.

Valley County

McCall, *Rice Meetinghouse*.

Fayette County

Lexington, *Central Christian Church*, 207 E. Short St.
Lexington vicinity, *Rogers, Joseph Hale, House*, E of Lexington on Bryan Station Pike.

Jefferson County

Louisville, *Crescent Hill Reservoir*, Reservoir Ave.

Laurel County

London, *Bennett, Sue, Memorial School Building*, College St.

MINNESOTA

Rice County

Lonsdale, *Lonsdale Public School*, 3rd Ave. SW.

Washington County

Stillwater, *Nelson School*, 1018 S. 1st St.

MONTANA

Park County

Livingston, *Livingston Multiple Resource Area (Partial Inventory)*, various locations in Livingston.

NEBRASKA

Douglas County

Omaha, *Standard Oil Company Building*, 500 S. 18th St.

NEW YORK

Bronx County

Bronx, *Hall of Fame Complex*, Bronx Community College campus.

Rensselaer County

Troy, *St. Paul's Episcopal Church Complex*, 58 3rd St.

Westchester County

New Rochelle, *First Presbyterian Church and Pintard, Lewis, House*, Pintard Ave.

OREGON

Oregon Covered Bridges Thematic Resources, various locations in Oregon.

Multnomah County

Portland, *Bates-Seller House*, 2381 NW. Flanders St.
Portland, *Fenton, William D., House*, 626 SE. 16th Ave.
Portland, *Kendall, Joseph, House*, 3908 SE. Taggart St.
Portland, *Kerr, Albertina, Nursery*, 424 NE. 22nd Ave.

PENNSYLVANIA

Chester County

Elverson vicinity, *Lahr Farm*, E of Elverson on PA 23.

Dauphin County

Harrisburg, *Keystone Building*, 18–22 S. 3rd St.

Union County

Lewisburg, *Bucknell Hall*, Bucknell University campus.

SOUTH CAROLINA

Beaufort County

Beaufort vicinity, *Fort Lyttelton Site*, S of Beaufort on Spanish Point Dr.

Berkeley County

St. Stephen vicinity, *Keller Site*.

Charleston County

Folly Beach vicinity, *Secessionville Historic District*, N of Folly Beach.

Greenwood County

Greenwood, *Mt. Pisgah A.M.E. Church*, Hackett Ave. and James St.

Richland County

Columbia, *Columbia Multiple Resources Area* (Partial Inventory) (additions).

York County

York, *York Historic District*, SC 5 and U.S. 321.

SOUTH DAKOTA

Bon Homme County

Scotland, *Methodist Episcopal Church*, 811 6th St.

Day County

Andover, *Waldorf Hotel*, Main St.

TEXAS

Bexar County

San Antonio, *Old Lone Star Brewery*, 110–116 Jones Ave. (boundary increase).

Cherokee County

Alto vicinity, *Davis, George C.*, 6 mi. SW. of Alto on TX 21 (boundary increase).

Bennington County

Bennington vicinity, *Mathews, David, House*, VT 67
Stamford, *Tudor House*, VT 8

Orange County

Barre vicinity, *Whitcomb, Harlie, Farm*, NE of Barre off U.S. 302

Windham County

Rockingham, *Rockingham Meetinghouse*, off VT 103

WISCONSIN

Columbia County

Columbus, *Columbus City Hall*, 105 N. Dickason St.

Dodge County

Waupun, *Waupun Public Library*, 22 S. Madison St.

Fond du Lac County

Ripon, *First Congregational Church*, 220 Ransom St.

Milwaukee County

Glendale, *Spring Grove Site*

The following properties were published as Pending in the June 26, 1979, **Federal Register** listing. In that list, however, state names were omitted. Properties are listed here in order to give allow anyone wishing to respond an appropriate commenting period.

SOUTH DAKOTA

Brookings County

Bushnell, *Farmers Store*, Main St.

Lake County

Ramona vicinity, *St. Ann's Catholic Church of Badus*, NE of Ramona.

Union County

Alcester vicinity, *Baker House*, NE of Alcester.

Yankton County

Yankton, *Yankton Carnegie Library*, 4th and Capitol Sts.

UTAH

VERMONT

Addison County

Vergennes, *Strong, Samuel Paddock, House*, 82 W. Main St.

VIRGINIA

WASHINGTON

Aboriginal Rock Art Sites in Washington Thematic Resources, various locations in Washington.

Snohomish County

Monroe vicinity, *Biderbost Archeological Site*.

[FR Doc. 79-22423 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-03-M

INTERNATIONAL COMMUNICATION AGENCY

United States Advisory Commission on International Communication, Cultural and Educational Affairs; Changed Meeting

The U.S. Advisory Commission on International Communication, Cultural and Educational Affairs announces a change in the agenda for its published meeting, August 16–17.

The topic covered will not be educational and cultural affairs, as previously announced. The topic will be "Programs," presenting the Commission members with an introduction to the various products and programs which ICA designs for overseas audiences. The meeting will travel throughout the Agency, scattered around Washington, beginning in Room 1008–1750 Pennsylvania Avenue. If you are interested in attending the meeting, please call Miss Elizabeth Fahl, 724–9974, for further details.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency

[FR Doc. 79-22788 Filed 7-23-79; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Change to Guide for Discretionary Grant Programs, M4500.1G for Fiscal Year 1979

AGENCY: Law Enforcement Assistance Administration, Department of Justice.

ACTION: Publication of guideline for the Arson Control Assistance Program.

SUMMARY: This change represents an addition to M4500.1G, *Guide for Discretionary Grant Programs*, and as such will be subject to the same regulations which govern that manual. It will not in any way impact upon the programs or regulations presently set out in M4500.1G, nor will it affect the eligibility of those individuals applying for previously announced programs.

FOR FURTHER INFORMATION CONTACT: Judith A. O'Connor, Program Manager, Arson Unit, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

SUPPLEMENTARY INFORMATION: The Law Enforcement Assistance Administration (LEAA) is announcing a new grant program as an addition to the Fiscal Year 1979 *Guide for Discretionary Programs*, M4500.1G. A draft announcement for the new Arson Control Assistance Program appeared in the **Federal Register** on June 14, 1979 and the public was given 30 days in which to review and comment on the proposed program. An analysis of comments received is provided below.

The new program was developed by the Office of Criminal Justice Programs, LEAA, under the legislative authority of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3701, et seq.

Nineteen written responses were received by LEAA as a result of a request for comments and recommendations regarding the proposed program. Of those, there were 11 from state level agencies (primarily criminal justice planning agencies), one from a regional planning unit, three from county level agencies, three from local units of governments, and one from a private firm.

The majority of the respondents supported the program and were enthusiastic about both the concept and the focus of the Arson Control Assistance Program. Particular aspects singled out in this regard included the decision to make grants available to several levels of grantees, the general program design including a framework of coordinated strategies involving all concerned agencies, and the comprehensiveness and clarity of the program announcement. In addition, LEAA was commended for its policy of consulting with state planning agencies prior to major grant program decisions.

Comments were recieved requesting that the pre-awarded data collection requirement be removed because there is a lack of skill and expertise in detecting arson in many locales. It was felt that any data collected under such conditions would be suspect and unusable. It was also noted that an "improved data base and analytical capability regarding arson" are included among the results sought under this program. LEAA decided not to remove the requirement because the basis of need will be one of the selection criteria for this program. LEAA is well aware that many data collection systems need improvement; however, even in their current state, they can give an indication, if not a full picture of the arson problem in a given jurisdiction.

Several respondents mentioned that the language of the application requirements section seemed to be aimed at local and county jurisdictions rather than states. In particular, they cited the first four sub-sections of part d. LEAA staff agreed and has changed some of the language accordingly.

Requests were made that LEAA addd language to specifically include the improvement of laboratory services and the control of other types of arson such as forest and agricultural. Since the present guidelines in no way rule these areas out, no modification of the announcement appeared necessary.

Several respondents felt that insufficient attention was paid to the role of the insurance industry and the profit motive aspects of the crime of arson. Additional language was included to incorporate these areas.

A request to extend the deadline date was included in one set of comments. Since the funds allocated for this program are Fiscal Year 1979 funds, LEAA chose not to change the August 29, 1979 deadline date.

Another response stated that the present funding levels appeared inadequate for large urban cities and proposed a fourth category—jurisdictions over 800,000 in population, which would receive grants for up to $400,000. Given the limited number of grants to be funded under this program, it was decided not to further reduce that number by increasing the funding level for certain jurisdictions.

In addition to those changes made in response to the comments received from the public, several changes were made by the LEAA Arson Unit which developed the program.

The most significant change involves the Evaluation section. LEAA will select an evaluator for all of the projects funded under this program. Applicants should not include an evaluation component in their applications. For details see the Evaluation section of the program announcement.

Several minor changes were also made in the Application Requirements section and additional wording was included in the Eligibility section. Those applicants who used the draft program announcement as the basis to begin writing their applications are advised to read the final announcement carefully for changes.

The text of the final program announcement follows:

Arson Control Assistance Program

a. *Program Objective.* The objective of this program is to assist state, regional, county, and local efforts to reduce the number of deaths, the personal injury, and the economic loss related to arson, and to upgrade current knowledge regarding arson incidence and arson control approaches.

b. *Program Description.*—(1) *Problem Addressed.* In terms of lives and property lost and the rate of incidence, arson has become America's fastest growing crime. A definite correlation has been drawn between the present limited capabilities of police, fire, and prosecutorial agencies in dealing with arson and the low deterrence level of the crime. Most police and fire departments lack the resources, expertise and manpower to adequately respond to the growing arson problem in their jurisdiction and prosecutors, for various reasons, are often reluctant to bring arson cases to trial. All too often there is little or no cooperation or coordination among the various agencies dealing with arson. Valuable resources such as community groups, the insurance industry, and property records offices are not maximally involved. In addition, insufficient attention is paid to such approaches as reducing the profit motive associated with arson. Extensive needs for training, data collection systems, equipment, manpower, and a framework for a coordinated arson control effort have been identified by and for each of the involved agencies. However, due to lack of funds many of these needs go unanswered.

(2) *Results Sought.*—(a) Improved capabilities of agencies involved with arson control at the state, regional, county, and local levels;

(b) Increased cooperation among those agencies involved with arson detection, investigation, prosecution, prevention, and education/training;

(c) Increased coordination of anti-arson efforts within the given jurisdiction;

(d) Increased sensitivity on the part of all involved agencies to the problem of arson and to the roles of all those engaged in combatting the crime;

(e) Improved data base and analytical capability regarding arson;

(f) Increased identification of arson fires;

(g) Increased arrest rates for arson cases;

(h) Increased prosecution rates for arson cases;

(i) Increased conviction rates for arson cases;

(j) Increased level of public awareness and participation in arson control efforts;

(k) Increased involvement on the part of the judiciary, the insurance industry, community groups, and others with interest in arson control;

(l) Reduction of profit motive associated with arson; and

(m) Increased exchange of information.

c. *Program Strategy.* Investigative and prosecutorial expertise of federal criminal justice agencies will be integrated with the financial and technical assistance capabilities of LEAA. Grants to improve arson control capabilities will be made to state, regional, county, and local jurisdictions. Arson control in this context includes but is not limited to such activities as detection, investigation, prosecution, prevention, and public education.

Based on the recommendations of numerous studies and reports, it has been determined that a coordinated effort among police, fire, and prosecutorial agencies as well as all others in a given jurisdiction with interest in arson control is required to successfully combat the crime. Funds will be available to support programs constituting such an integrated approach.

Cooperation and coordination are the key words in this effort. Applicants must provide such documentation as letters of commitment and memoranda of agreement indicating involvement and participation on the part of all agencies (including but not limited to police, fire, and prosecution) connected with the overall arson control effort within that jurisdiction.

Particular attention will be paid to those applications demonstrating an innovative approach to dealing with arson.

d. *Application Requirements.* The following elements must be included in each project and described in Part IV, "Program Narrative" of standard federal assistance application form 424. Applicants must conform to the instructions listed therein as well as the requirements detailed below. Application forms may be obtained from the state criminal justice planning agency. Selection of grantees will be based in large part on how well each of these elements is addressed

(1) A detailed description of the arson problem in the area to be served, including such relevant data as incidence figures, dollar value of property loss, and personal injury;

(2) A description of the service area which may include but is not limited to geographical aspects, population figures, industrial/residential configuration, and types and numbers of building structures;

(3) A description of applicable laws, pending legislation, court or executive orders, etc., within or affecting the jurisdiction. In particular, this section should address the specific authorities, responsibilities, and constraints which these laws or orders place on the various agencies involved;

(4) A description of existing anti-arson efforts by police, fire, and prosecutorial agencies and others, including arrest and conviction rates, existing cooperative agreements, arson control-related activities of community groups, available services, gaps in such services, and any other relevant information;

(5) A discussion of the specific goals and objectives of the proposed project;

(6) A description of how the planned approach will meet the needs identified in d (1–4) above;

(7) A specific workplan, including timetable, describing the activities of the project and the results and benefits expected;

(8) An organization chart, job descriptions and qualifications for all project personnel. Particular attention will be paid to the qualifications of the project director. Details concerning specific responsibilities and relevant authority must be provided for all personnel;

(9) A network chart indicating the relationship between and among all involved agencies;

(10) Documented proof of cooperation and coordination among all involved agencies (including but not limited to police, fire, and prosecution). This should include any and all letters of commitment (to the roles and activities described in the application) and memoranda of agreement;

(11) Listing of past and present arson-related funding received from state or federal sources (in dollars and project type) and their relation to this project;

(12) Evidence that the state and local A–95 clearinghouses, regional planning unit, and state criminal justice planning agency have received copies of the application. Such evidence may consist of a copy of the cover letter conveying the application to each of those agencies. (Note: actual grant award is contingent upon receipt of comments from all of these agencies.) Applicants are encouraged to submit a Notice of Intent to the state A–95 clearinghouse by July 31, 1979 or as soon thereafter upon establishing intent to file an application under this program; and

(13) A detailed assumption-of-cost plan.

e. *Data Collection Effort.* In addition to the pre-award data requested above, grantees will be required to develop and/or maintain a collection system to gather relevant data from which accurate conclusions regarding overall project performance can be drawn. Technical assistance will be available to aid in establishing or modifying this system. Use of the system will be linked directly with the planned evaluation (see Evaluation section).

Applicants are also asked to describe existing national, state, and local reporting programs in which they participate.

f. *Dollar Range and Number of Grants.* Funds will be made available to arson control projects at the state, regional, county, and local levels. Up to four (4) grants, not to exceed $600,000 each, will be made to support state-level efforts; up to six (6) grants, not to exceed $200,000 each, will go to jurisdictions with populations at or over 100,000; and up to five (5) grants, not to exceed $125,000 each, will be made available to jurisdictions with populations below 100,000.

All grants will be awarded for a period of up to 18 months with consideration for a second cycle based on LEAA review and monitoring and on fund availability. (Note: Second-Cycle funding is not automatic; even projects of demonstrated success will not be guaranteed refunding).

Cash match requirement for these grants shall be ten (10) percent; if second-cycle funding is awarded, it will require twenty (20) percent cash match.

g. *Eligibility.* All state, regional, county, or local units of government, or sub-units thereof, or a combination of units at the same or different level may apply for funds. Sub-units must apply through their larger unit (i.e., a police department through its city government).

Where the policy, administration and fiscal responsibilities lie in differing governmental bodies, the application should be co-signed. For example, where a sub-unit may be fiscally supported by city revenues but administratively responsible to a state supervisory board, the city and state board should co-sign the application. In such cases, a detailed memorandum of agreement should be developed between the co-applicants specifying which has authority and responsibility for particular aspects of the project and naming the implementing agency (the sub-unit) for the project.

h. *Application Deadline and Submission Procedures.*—(1) All applications must be recieved by LEAA and the A–95 clearinghouses no later than August 29, 1979. No applications received after that date will be considered for funding; and

(2) In addition to the copies of the application sent to the state and local A–95 clearinghouses, the regional planning unit, and the state planning agency, the original plus two (2) copies of the entire application package should be sent to:

The Control Desk, GCMD/FMGAB, Office of the Comptroller, LEAA, 633 Indiana Avenue NW., Washington, D.C. 20531.

i. *Criteria for Selection.*—(1) Applicants will be rated on the extent to which they respond to the requirements of this program description and, in particular, the Application Requirements section;

(2) Applicants must provide evidence of an administrative structure that has the capability, authority, and fiscal responsibility to effectively achieve the project's stated objectives;

(3) Applicants demonstrating existing independent efforts in coordinated arson control will receive preference over those which do not; and

(4) Only one grant will be awarded in any urban area (SMSA).

j. *Evaluation.*—All projects within the Arson Control Assistance Program will be evaluated during the grant period by a single evaluator selected by LEAA. In addition, an evaluation of the overall program is tentatively planned for Fiscal Year 1980. Grantees must attest to their willingness to share their data with the national evaluators as well as providing any other cooperation required to perform such evaluations. Such cooperation would include granting evaluation personnel access to project operations and records, providing data prescribed by LEAA at such times (generally monthly) as requested, and otherwise participating in necessary evaluation activities. Evaluation reports will be provided to grantees, as well as to LEAA, during the course of the program and following project completion.

k. *Contact.*

Arson Unit, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Room 1158, Washington, D.C. 20531, (202) 724–7661 or 724–7662.

Henry S. Dogin,

Administrator, Law Enforcement Assistance Administration.

[FR Doc. 79–22840 Filed 7–23–79; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–79–88–C]

Ashland Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Ashland Mining Corporation, Bluefield, West Virginia 24701, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 2 Mine located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petition concerns the installation of lighting on the petitioner's scoop.

2. The petitioner is mining coal seams 27 to 32 inches in height.

3. Due to the low ceiling, it is virtually impossible to illuminate the scoop end of the machine ten feet inby the width and height of the machine.

4. Given the scoop operator's limited field of vision and the low height of the entries, the operator proposes to illuminate the battery tray end of the scoop ten feet outby the height and width of the machine and to illuminate the rib on the operator's side.

5. The petitioner believes that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 16, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79–22793 Filed 7–23–79; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–79–103–C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas well barriers) to its Dents Run Mine, located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. Several abandoned oil and gas wells drilled prior to 1930 penetrate the coal seam the petitioner intends to mine.

2. As an alternative to leaving barriers of coal around these wells as required by the standard, the petitioner proposes to plug and mine through the wellbores using a proven technique detailed in the petition.

3. This technique involves the use of expanding cement to seal the wellbores below the coal seam and involves careful monitoring to insure that natual gas from the wells does not enter the mine.

4. In addition to eliminating a possible gas flow, this technique—

(a) Allows for more sealing material in critical areas within the well base below the coalbed;

(b) Allows a positive indication of the environment within the well base across the coal seam;

(c) Allows for the use of the existing well base for other mine uses, such as for methane drainage and power holes; and

(d) Uses a cleanout technique which lends itself to rotary operations that are inherently safer than cable tool operations.

5. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 16, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-22792 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-15-M]

Johns-Manville Sales Corp.; Petition for Modification of Application of Manatory Safety Standard

Johns-Manville Sales Corporation, 2500 Miguelito Road, Lompoc, California 93436, has filed a petition to modify the application of 30 CFR 55.13-20 (compressed air), to its Lompoc Pit and Mill, located in Santa Barbara County, California. The petition is filed under section 101(c), of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of compressed air at personnel cleaning stations (blow-off booths) to clean dust from workers' clothing.

2. The diatomaceous dirt mined and processed by the petitioner clings to clothes and is difficult to remove.

3. The petitioner combines compressed air passing through an aspirator nozzle with ambient air which blows dust off clothing.

4. Workers are instructed in the proper procedures for using the cleaning stations; and since 1954, when the stations began operation, there has never been an accident attributed to their use.

5. Since the cleaning stations permit its workers to clean their clothing in a safe, efficient manner, the petitioner requests relief from the application of the standard to the booths.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 21, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-22789 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-102-C]

United Pocahontas Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

United Pocahontas Coal Company, P.O. Box 948, Beckley, West Virginia 25801, has filed a petition to modify the application of 30 CFR 77.1714 (permissible electric equipment) to its Claremont Preparation Plant located in Fayette County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner plans to drive a tunnel for a coal refuse belt line.

2. The tunnel will be driven with an Armco-Jarva Tunnel Boring Machine (TBM) which is permissible electric equipment for use underground.

3. Core samples indicate that excavations from the tunnel will be over 99 percent sandstone and shale.

4. Two thin seams of unmineable coal are located in the path of the tunnel. However, given the thickness (10 inches and 4 inches respectively) and the positions of the seams, methane gas accumulations are unlikely.

5. To the petitioner's knowledge, there is no permissible transformer to power the TBM available in the United States.

6. For these reasons, the petitioner requests permission to locate a non-permissible transformer about 80 feet from the face. This transformer will be ventilated on a separate split of ventilating air while being towed by the TBM.

7. An air mover using compressed air will circulate 1,500 CFM of fresh air through the power center and discharge the return air through a closed ventilation system.

8. The compressed air system is independent of the towed power system and will continue to maintain ventilation if a power center current interruption occurs.

9. If a total power failure occurs, an emergency diesel-powered air compressor on standby at the tunnel portal will be used.

10. If a power center fire breaks out, fumes and smoke can be exhausted to the portal through the closed ventilation system.

11. The petitioner states that its request will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 12, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-22790 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-95-C]

Viking Coal Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

Viking Coal Company, Inc., P.O. Box 87, Kingwood, West Virginia 26537 has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its Carol Mine located in Preston County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of cabs or canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining coal seams ranging 48 to 50 inches in height. This roof to pavement height is reduced about two and three fourths inches if measured from the roof bolts or about five inches if measured from the cross bar supports.

3. Undulating roof conditions at times limit roof to pavement clearances to 38 inches.

4. The petitioner believes cabs or canopies in the heights encountered in its mine would result in a diminution of safety for the following reasons:

(a) Cabs or canopies would not allow the equipment operator proper visibility for safe operation of the equipment while remaining under the cab or canopy.

(b) Cabs or canopies could dislodge roof support in areas of uneven roof.

(c) The cramped and confined space under a cab or canopy would impair the equipment operator's ability to properly control the equipment.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 16, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-22791 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 3, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 3, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alpo Coat company, Inc. (company)	Hoboken, N.J	7/12/79	7/9/79	TA-W-5,748	Sub-contractor of ladies' coats.
Bowling & Hildebrand Trucking Company (U.M.W.A.).	Raleigh County, W. Va	6/25/79	6/20/79	TA-W-5,749	Hauling of coal.
Bryant Trucking (U.M.W.A.)	Greenbrier, County, W. Va	7/9/79	6/29/79	TA-W-5,750	Hauling of coal.
Celotex Corp., Vestal Manufacturing Division (USWA).	Sweetwater, Tenn	7/12/79	6/30/79	TA-W-5,751	Steel and cast iron products.
Dacor, Inc. (company)	Worcester, Mass	7/12/79	7/12/79	TA-W-5,752	Simulated brick and stone facings.
DuPont Puerto Rico, Inc. (company)	Manati, P.R.	7/10/79	7/12/79	TA-W-5,753	Dye products.
Girltown Corp. (company)	New York, N.Y	7/9/79	6/22/79	TA-W-5,754	Children's sportswear.
Indianapolis Glove Company, Inc. (workers)	Mount Ida, Ark	7/9/79	6/27/79	TA-W-5,755	Cotton jersey work gloves.
J. F. McElwain Co.—J Factory (New Hampshire Shoe Workers Union Affiliated with United Food & Commercial Workers.	Manchester, N.H	7/9/79	6/29/79	TA-W-5,756	Men's shoes.
The Beattie Manufacturing Company (workers).	Little Falls, N.J	7/12/79	7/2/79	TA-W-5,757	Rugs and carpets.
U.S. Steel Corp., Pittsburg Works (USWA)	Pittsburg, Calif	7/12/79	6/30/79	TA-W-5,758	Carbon steel wire, rod, carbon steel wire and wire products, pipe and tubing.

[FR Doc. 79-22794 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5402 and 5402a]

Bagatelle International, Ltd.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979, in response to a worker petition received on May 14, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing coats and suits at Bagatelle International, Limited, Warminster, Pennsylvania. The investigation was expanded to include offices in New York, New York. The investigation revealed that the plant produces primarily ladies' suits, skirts, slacks, blouses and blazers. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's suits, skirts, slacks and shorts, blouses and shirts, and coats and jackets increased in 1978 compared to 1977.

In a Departmental survey, customers of Bagatelle International, Limited indicated decreased purchases from the subject firm and increased imports of ladies' suits, skirts, slacks, blouses and

blazers in 1978 compared to 1977 and in the January through April period of 1979 compared to the same period of 1978.

Bagatelle began contracting overseas for the cutting and sewing of ladies' suits, skirts, slacks, blouses and blazers in early 1979 with first shipments expected in June, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' suits, skirts, slacks, blouses, and blazers produced at Bagatelle International, Limited, Warminster, Pennsylvania and New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bagatelle International, Limited, Warminster, Pennsylvania and New York, New York who became totally or partially separated from employment on or after May 8, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-22795 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5421]

Charlet Undergarment Co., Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 18, 1979, in response to a worker petition received on May 14, 1979, which was filed on behalf of workers and former workers producing women's robes, nightgowns and blouses at, Charlet Undergarment Company, Incorporated, Passaic, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, girls' and children's nightwear decreased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

U.S. imports of women's, misses' and children's robes, dressing gowns and housecoats decreased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

U.S. imports of women's, misses' and children's blouses and shirts decreased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

A survey of manufacturers which contract orders with Charlet Undergarment Company, Incorporated revealed that these manufacturers did not purchase imported finished blouses, robes or nightgowns in 1978 and the first quarter of 1979. These manufacturers also did not employ foreign contractors to produce the garments.

Conclusion

After careful review, I determine that all workers of Charlet Undergarment Company, Incorporated, Passaic, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22796 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5423]

Cuddle Knit Knitting Mills; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 14, 1979 which was filed on behalf of workers and former workers producing ladies' sweaters and knitwear at Cuddle Knit Knitting Mills, Deer Park, New York. The investigation revealed that the plant produces primarily women's sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production during 1978 compared to 1977.

A survey of Cuddle Knit's customers was conducted by the Department. Survey results revealed that several customers reduced purchases from Cuddle Knit while increasing purchases of sweaters from foreign sources during 1978 compared to 1977 and during the first quarter of 1979 compared to the first quarter of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sweaters produced at Cuddle Knit Knitting Mills, Deer Park, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cuddle Knit Knitting Mills, Deer Park, New York who became totally or partially separated from employment on or after May 10, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

Harry J. Gilman,

Supervisory International Foreign Economic Research.

[FR Doc. 79-22797 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5393-5393B]

Hy-Grade Sportswear Co., Inc. et al.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 15, 1979 in response to a worker petition received on May 14, 1979 which was filed on behalf of workers and former workers producing men's Sportcoats, suits and leisure wear at Hy-Grade Sportswear Company, Incorporated in New York, New York. The investigation revealed that men's suits, sportcoats, suburban coats, overcoats and women's sportcoats are produced by the firm. The investigation was expanded to include Hy-Grade Coat Company, Incorporated and International Man, both of which are located in New York, New York and are divisions of Hy-Grade Sportswear Company. Hy-Grade Sportswear Company, Hy-Grade Coat Company and International Man form a single integrated manufacturing and selling unit. Sales are made by Hy-Grade Sportswear Company, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased absolutely from 1976 to 1977. Imports declined from 1977 to 1978 and then increased in the first three months of 1979 as compared to the same period of 1978.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased absolutely from 1977 to 1978.

U.S. imports of men's and boys' outer coats and jackets increased absolutely and relative to domestic production from 1976 to 1977. Imports increased relative to domestic production from 1977 to 1978.

A Departmental survey of customers of Hy-Grade Sportswear Company revealed that several customers increased their purchases of imported men's suits, Sportcoats and suburban coats and decreased purchases from Hy-Grade Sportswear in the first five months of 1979 as compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits, sportcoats and suburban coats at Hy-Grade Sportswear Company, Incorporated and with men's suit coats, sportscoats, suburban coats, and overcoats and at Hy-Grade Coat Company, Incorporated, both of New York, New York, contributed importantly to the decline in sales or production and to the total or partial separation of workers of these firms and at the retail arm known as International Man, New York, New York. In accordance with the provisions of the Act, I make the following certification:

All workers of Hy-Grade Sportswear Company, Incorporated, Hy-Grade Coat Company, Incorporated and International Man, all of New York, New York, who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22798 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5738]

Isaacson Steel Co.; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 11, 1979 in response to a worker petition received on July 9, 1979 which was filed by the International Association of Bridge, Structural and Ornamental Iron Workers on behalf of workers and former workers producing fabricated structural steel at Isaacson Steel Company, Seattle, Washington.

The petitioning group of workers was certified as eligible to apply for adjustment assistance in a determination issued on March 30, 1978. Since workers of Isaacson Steel Company, Seattle, Washington newly separated, totally or partially, from employment on or after October 13, 1976 (impact date) and before March 30, 1980 (expiration date of the certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 16th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-22799 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4699]

Jonathan Logan, Inc.; Notice of Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 221 of the Trade Act of 1974 (19 U.S.C. 2273) and in accordance with section 223(a) of such Act, on April 13, 1979 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Jonathan Logan Dress Division of Jonathan Logan, Incorporated, North Bergen, New Jersey.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry regarding workers and former workers producing ladies' dresses and sportswear at the K & M Division of Jonathan Logan, Incorporated, North Bergen, New Jersey. The K & M Division of Jonathan Logan, Incorporated produced dress and pantsuits duplicates (prototypes) designed by the Jonathan Logan Dress Division which were sent to salesmen and used for purposes of demonstration. Nearly all of these duplicates were mass produced by the Jonathan Logan Dress Division of Jonathan Logan, Incorporated.

Conclusion

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised certification:

All workers of the Jonathan Logan Dress Division and the K & M Division of Jonathan Logan, Incorporated, North Bergen, New Jersey who became totally or partially separated from employment on or after December 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22800 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5382]

Korelle Industries, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 14, 1979 in response to a worker petition received on May 9, 1979 which was filed on behalf of workers and

former workers producing plastic coated fabrics at Korelle Industries, Incorporated, Avenel, New Jersey. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Average employment of workers at Korelle Industries was stable in 1978 compared with 1977, and increased during the first five months of 1979 compared with the same period in 1978.

Conclusion

After careful review, I determine that all workers of Korelle Industries, Incorporated, Avenel, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-22801 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5289 and TA-W-5294]

Maryland-Hampstead Clothing Co. and Paramount Clothing Co.; Revised Certification of Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 28, 1979, applicable to all workers of Maryland-Hampstead Clothing Company, Hampstead, Maryland and the Paramount Clothing Company, Baltimore, Maryland. The Notice of Certification was published in the **Federal Register** on July 6, 1979, (44 FR 39633).

On the basis of additional information provided by a company official, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The review of the case revealed that several layoffs will occur over the next several months as both facilities close down. These layoffs would not be covered because of the present termination date of July 1, 1979.

The intent of the certification is to cover all workers who were affected by the decline in production of men's suits at the Maryland-Hampstead Clothing Company, Hampstead, Maryland and the Paramount Clothing Company, Baltimore, Maryland, related to import competition. The certification, therefore, is revised by deleting the termination date of July 1, 1979.

The revised certification applicable to TA-W-5289 and TA-W-5294 is hereby issued as follows:

All workers of Maryland-Hampstead Clothing Company, Hampstead, Maryland and of Paramount Clothing Company, Baltimore, Maryland who became totally or partially separated from employment on or after April 17, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-22802 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5213 and TA-W-5213A]

Metaframe Corp. and Elmwood Park, N.J.; Metaframe Corp., Compton, Calif. Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Adjustment Assistance on June 8, 1979, applicable to all workers of the Elmwood Park, New Jersey, plant of Metaframe Corporation. The Notice of Certification was published in the **Federal Register** on June 19, 1979 (44 FR 35314).

At the request of a company official of Metaframe Corporation, a further review was made. The review of the case revealed that the determination should have been expanded to include the Compton, California, facility of Metaframe Corporation. Several layoffs occurred in April and June of 1978. Production at Compton has ceased, and plant employment has been reduced to a small fraction of the 1978 average. The plant is expected to close by September 1, 1979.

The intent of the certification is to cover all workers of the Metaframe Corporation, Elmwood Park, New Jersey, and Compton, California, who were affected by increased imports of articles like or directly competitive with aquariums and aquarium accessories. The certification, therefore, is revised to include all workers of Metaframe Corporation at Compton, California.

The revised certification applicable to TA-W-5213 is hereby issued as follows:

All workers of Metaframe Corporation located at Elmwood Park, New Jersey, and Compton, California, who became totally or partially separated from employment on or after April 3, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-22803 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5413]

Packaging Associates, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 16, 1979, in response to a worker petition received on May 14, 1979, which was filed on behalf of workers and former workers producing vinyl, plastic and cloth heat sealing products at Packaging Associates, Incorporated, Bridgewater, New Jersey. The investigation revealed that the company also performs engineering consulting work.

With respect to the engineering consulting services provided by Packaging Associates, Incorporated which are not directed to any article produced by Packaging Associates, Incorporated, workers so engaged do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Packaging Associates, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Packaging Associates, Incorporated and its customers have no controlling

interest in one another. The subject firm is not corporately affiliated with any other company.

All workers of Packaging Associates, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Packaging Associates, Incorporated. All employee benefits are provided and maintained by Packaging Associates, Incorporated. Workers are not, at any time, under employment or supervision by customers of Packaging Associates, Incorporated. Thus, Packaging Associates, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Without regard to whether any of the other criteria have been met for workers engaged in the production of an article, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

With respect to workers engaged in the production of an article, the evidence revealed that production of no product produced by Packaging Associates, Incorporated has continued for more than six months. Due to the short term of production of each product produced by Packaging Associates, Incorporated, it is not possible to determine trends of sales and production or to measure statistically the impact of imports of any product produced by the firm.

Conclusion

After careful review, I determine that all workers of Packaging Associates, Incorporated, Bridgewater, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22804 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5644]

Riverton Coal Co.; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 22, 1979, in response to a worker petition received on May 29, 1979, which was filed by the United Mine workers of America on behalf of workers mining coal at Riverton Coal Company, Charleston, West Virginia. The investigation revealed that the same group of workers is the subject of the ongoing investigation TA-W-5323.

Since the identical group of workers is the subject of an ongoing investigation TA-W-5323, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-22805 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5418]

Susan Garment Co.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Susan Garment Company, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conductd by the Department of Labor of the manufacturers for whom Susan Garment Company performed contract work. The survey revealed that those manufacturers decreasing orders of ladies' sportswear from Susan Garment Company and increasing orders with foreign contractors represented an insignificant proportion of the firm's decline in contract work. Almost all manufacturers reported no foreign purchases or contracts, and most manufacturers responding to the survey indicated increased orders with other domestic contractors or increased company sales of ladies' sportswear.

Conclusion

After careful review, I determine that all workers of Susan Garment Company, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-22806 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5448]

Torwico Electronics; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 22, 1979 in response to a worker petition received on May 18, 1979 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing transformers at Torwico Electronics, Lakewood, New Jersey. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of speciality transformers were negligible in 1978 and during the first quarter of 1979. None of the surveyed customers of Torwico Electronics purchased imported transformers.

Conclusion

After careful review, I determine that all workers of Torwico Electronics, Lakewood, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-22807 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5083]

Wyoming Valley Garment Co., Inc.; Notice of Affirmative Determination Regarding Application for Reconsideration

On June 12, 1979, the Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance. This determination was published in the **Federal Register** on May 25, 1979 (44 FR 30481).

The petitioning union raises one basic issue in the application. It questioned the Department of Labor's survey of a major customer of Wyoming Valley Garment Co., Inc., Wilkes-Barre, Pennsylvania.

Conclusion

After review of the application, I conclude that this claim of the petitioning union is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 16th day of July 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-22898 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

State of Pennsylvania Department of Labor and Industry; Hearing

This notice announces an opportunity for a hearing for the Department of Labor and Industry of the Commonwealth of Pennsylvania (hereafter referred to as the State agency) pursuant to the last sentence of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) to be held at 9:30 o'clock in the morning on August 21, 1979, in Courtroom C, Vanguard Building, 1111 20th Street NW., Washington, D.C.

The hearing will be on the general question of whether the Commonwealth of Pennsylvania has failed to amend its Unemployment Compensation Law so that it contains, effective November 1, 1978, each of the provisions required by reason of the enactment of the Unemployment Compensation Amendments of 1976 (Pub. L. 94-566, approved October 20, 1976; 90 Stat. 2667) and Title III of the Emergency Unemployment Compensation Extension Act of 1977 (Pub. L. 95-19, approved April 12, 1977; 91 Stat. 39, 43), and/or has with respect to the 12-month period ending October 31, 1979, failed to comply substantially with any such provision. More particularly, the hearing will be on the following issues:

1. Whether the Pennsylvania Unemployment Compensation Law, which provides for the omission or removal of unemployment compensation charges from the accounts of employers liable for the payment of reimbursements to the State's unemployment fund, conforms with the provisions required by Sections 3304(a)(6)(B) and 3309(a)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(6)(B) and 3309(a)(2)), as amended by Section 506 of Pub. L. 94-566 and Section 302(b) of Pub. L. 95-19;

2. Whether the Pennsylvania Unemployment Compensation Law, which provides under specified conditions for payment of unemployment compensation retroactively for weeks of unemployment that had been properly denied between academic years or terms, conforms with the provisions required by Section 3304(a)(6)(A)(ii) of such Code (26 U.S.C. 3304(a)(6)(A)(ii)), as added by Section 115(c) of Pub. L. 94-566;

3. Whether the Pennsylvania Unemployment Compensation Law, which provides under specified conditions for the denial of unemployment compensation between academic years or terms to governmental employees who are not employees of educational institutions, conforms with the provisions of Section 3304(a)(6)(A) of such code (26 U.S.C. 3304(a)(6)(A)), and clauses (i), (ii), and (iii) thereof, as amended by Section 115(c) of Pub. L. 94-566 and Section 302(c) of Pub. L. 95-19; and/or

4. Whether the Commonwealth of Pennsylvania has failed to comply substantially with any of the Federal law provisions referred to in issues 1 to 3 above.

The decision following the hearing will have a bearing on whether the Commonwealth of Pennsylvania is certifiable on October 31, 1979, with respect to normal and additional tax credits allowable to Pennsylvania employers pursuant to subsections (a) and (b) of Section 3302 of the Internal Revenue Code of 1954 (26 U.S.C. 3302) for 1979, and on certification of payment to the Commonwealth of Pennsylvania of granted funds pursuant to Section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and pursuant to Section 5(b) of the Wagner-Peyser Act (29 U.S.C. 49d(b)) for the period during which the State is not certified under Section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304).

The proceedings in this matter shall be in accordance with the Rules of Procedure published with this Notice of Hearing.

Signed at Washington, D.C., on July 19, 1979.

Ray Marshall,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these rules.

2. The parties of record shall be the State agency (as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any other State agency, individual worker, or employer, or any organization or association of workers, employers, or the public, having an interest in these proceedings, may be permitted by the presiding Administrative Law Judge to participate in these proceedings. Participation by any such interested person shall be limited to the presentation of oral argument as provided in Paragraph 12 below and to the submittal of a brief as provided in Paragraph 13(a) below. Any such State agency, person, organization, or association described above, may apply for permission to participate in these proceedings as an interested person, by filing in the office of the Chief Administrative Law Judge, U.S. Department of Labor, Room 720, Vanguard Building 1111 20th Street, NW., Washington, D.C. 20036, not later than 1 week prior to the date of the hearing, a written request setting forth the applicant's name and address and the name, address and the title or position of any person who will represent the applicant. The presiding

Administrative Law Judge shall rule on all applications and inform the applicants and the parties of the rulings.

4. The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings and may, at the request of either party, or *sua sponte*, grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date, on good cause shown. In light of the statutory time constraints for the making of the decision herein, the granting of extensions of time (inclusive of continuances, etc.) shall be limited as follows:

(a) The State agency may request and, for good cause shown, may be granted an extension or extensions of time regarding the hearing date, submission of briefs and/or other matters, which cumulatively do not exceed 7 days.

(b) The U.S. Department of Labor may request, and for good cause shown, may be granted an extension or extensions of time regarding the hearing date, submission of briefs and/or other matters, which cumulatively do not exceed 7 days.

(c) Extensions of time granted *sua sponte* by the Administrative Law Judge shall cumulatively not exceed 3 days.

(d) No other extensions of time may be granted.

5. The parties of record shall have the opportunity to present oral and documentary evidence, and cross-examine witnesses, except as hereinafter provided in this paragraph.

(a) In the event that the State agency wishes to raise any issue other than the precise issue(s) identified in the Notice of Hearing and/or offer evidence regarding such issue as a part of this proceeding, it must first file with the presiding Administrative Law Judge a written Statement which contains:

(1) A statement of each such additional issue which it proposes to raise; and

(2) A summary of the evidence to be offered with respect to each such issue; this summary must specify with particularity the substance and form of the evidence to be offered.

(b) The Statement referred to in Paragraph 5(a), above, must be filed not later than 14 days prior to the date set for the hearing.

(c) In the event that a Statement is filed which meets the requirements of Paragraphs 5 (a) and (b), and the U.S. Department of Labor wishes to offer countervailing evidence regarding any issue identified in that Statement, it must file a Reply Statement which meets the requirements of Paragraph 5(a)(2).

(d) This Reply Statement must be filed not later than 5 days prior to the date set for the hearing or within 7 days of its receipt of the Statement, whichever occurs later; in no event shall the Reply Statement be filed later than 1 day prior to the hearing.

6. Upon the commencement of the hearing, the representative of the U.S. Department of Labor will make an opening statement as to the nature of the hearing and the matters in issue. The representative of the State agency will then be offered an opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) The State agency will proceed next to offer any evidence it may wish to present which is relevant to the issue(s) referred to in Paragraph 7(a), above. Upon the conclusion of this presentation, the State agency may present evidence relevant to any issue which it has specified in, and as to which it has provided a summary of the evidence to be offered in, a Statement filed in accordance with Paragraphs 5 (a) and (b) of these rules.

(c) Finally, the U.S. Department of Labor may present relevant countervailing evidence as to which it has provided a summary of the countervailing evidence to be offered in a Reply Statement filed in accordance with Paragraphs 5 (c) and (d) of these rules.

(d) Evidence may be presented only by the parties of record, and only upon issues identified in the Notice of Hearing or in a Statement or Reply Statement filed in accordance with Paragraph 5 of these rules.

8. Technical rules of evidence shall not apply to this proceeding. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and receive all relevant evidence. He may exclude irrelevant, immaterial, unduly repetitious or any other evidence excludable under these rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these rules, be received in evidence.

9. During the hearing the Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter. After the hearing is closed, no further evidence shall be taken except at the direction of the Secretary of Labor, unless provision has been made at the hearing for the later receipt of such evidence for the record.

If the Secretary of Labor directs that further evidence be taken, due and reasonable notice of the time and place of the reopened hearing shall be given to the parties of record and any interested person permitted to participate in the proceedings.

10. The proceedings at the hearing shall be recorded verbatim. Copies of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge and the parties of record, and may be obtained at cost by any interested person permitted to participate in the proceedings.

11. When any document is received in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and a copy shall be furnished to the other party of record.

12. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral argument presented by the parties of record and interested persons permitted to participate in the proceedings, except that oral argument shall not be heard with respect to the constitutionality of any Federal statute.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for the State agency, unless waived; argument of each of the interested persons who wish to present oral argument, in such order as the presiding Administrative Law Judge shall determine; closing argument for the State agency, unless waived; and closing argument for the U.S. Department of Labor, unless waived. Oral argument by an interested person shall not be longer than 15 minutes. All oral arguments shall be transcribed and made a part of the record.

13. (a) The parties of record and any interested person permitted to participate in these proceedings shall be permitted to file a brief and/or proposed findings of fact and conclusions of law on the matters in issue. All such briefs and other papers shall be filed with the presiding Administrative Law Judge not later than 14 days after the transcript of the hearing is available.

(b) Reply briefs may be filed by the parties of record not later than 21 days after the transcript of the hearing is available.

(c) The transcript of the hearing shall be deemed to be available as of the date it is received by the Office of Administrative Law Judges. Upon receipt of the transcript, the presiding Administrative Law Judge will notify both of the parties and all interested persons as to the date of receipt.

14. Within 14 days after the time has expired for the filing of reply briefs, the presiding Administrative Law Judge shall prepare a recommended decision containing his findings of fact and conclusions of law. No conclusions of law regarding the constitutionality of any Federal statute shall be made. The presiding Administrative Law Judge shall promptly certify to the Secretary of Labor his recommended decision and the entire record of the proceedings, and forward a copy of his certification and recommended decision to each party of record and to each interested person permitted to participate in the proceedings.

15. Within 10 days after the certification and recommended decision are mailed to them, the parties of record may file with the presiding Administrative Law Judge a Statement of Exceptions in writing setting forth any exceptions they may have to the recommended decision. Upon receipt of any timely filed Statement of Exceptions, the presiding Administrative Law Judge shall promptly forward such Statement of Exceptions to the Secretary of Labor.

16. Following the certification to him in accordance with Paragraph 14 above and consideration of any timely filed Statement of Exceptions, the Secretary of Labor shall render his decision in the matter, in writing, and shall cause the parties of record and the interested persons permitted to participate in the proceedings to be notified thereof.

17. (a) Any briefs, Statements, and other papers filed with the presiding Administrative Law Judge in this proceeding shall be mailed to the address specified in Paragraph 3 of these rules. Such documents shall be deemed to be filed on the date they are postmarked if they are transmitted by the U.S. Postal Service, and shall be deemed to be filed on the date they are received in the office of the presiding Administrative Law Judge if they are transmitted by other means.

(b) If the last day of a time limit prescribed by these rules falls on a Saturday, Sunday, or a Federal holiday, the time limit shall be extended to the next official business day; those time limits may be extended by the presiding Administrative Law Judge for good cause shown, subject to the limitations set out in Paragraph 4 above.

(c) Briefs, Statements and all other papers filed with the presiding Administative Law Judge shall be promptly served upon the other party or parties.

(d) Briefs, Statements and all other paper filed with the presiding Administrative Law Judge shall be submitted in duplicate and shall be accepted subject to timely filing and sufficient proof of service upon the other party or parties.

[FR Doc. 79-22863 Filed 7-24-79; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ALCOHOL FUELS COMMISSION

Notice of Open Meeting

Name: National Alcohol Fuels Commission.
Date: August 6, 1979.
Time: 9:00 a.m.–5:00 p.m.
Place: Lecture Hall 100, Indiana University—Purdue University, Indianapolis, Indiana.
Type of Meeting: Open.
Contact Person: Dr. Edward J. Bentz, Jr., Executive Director (202/254–7453).
Written Statements: Dr. Edward J. Bentz, Jr., Executive Director, c/o Senator Birch Bayh, Chairman, NAFC, 363 Russell Senate Office Building, Washington, D.C. 20510.

Purpose of the Commission: The National Alcohol Fuels Commission was established under Section 170 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass (including municipal and industrial waste, sewage sludge and oceanic and terrestrial crops) and coal to contribute to meeting the nation's energy needs. Based on such study it shall recommend those policies and their attendant costs and benefits most likely to minimize our dependence on petroleum.

Tentative Agenda: Receiving Public Testimony/Business Meeting.

Edward J. Bentz, Jr.,

Executive Director.

July 20, 1979.

[FR Doc. 79-22995 Filed 7-23-79; 9:27 am]

BILLING CODE 6820-AN-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The sixteenth meeting of the National Commisison on Unemployment Compensation is scheduled to be held at the New York Sheraton Hotel, New York, New York in the Forum Room on August 23, 24, 25. The meeting will begin at 8:30 a.m. and conclude at 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquires and communications concerning this meeting should be directed to:

James Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209, (702) 235–2782.

Signed at Washington, D.C. this 17th day of July, 1979.

James Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-22786 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-27-M

Meeting

The seventeenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Royal Sonesta Hotel, New Orleans, Louisiana in the Belle Grove Room on September 16, 17, 18. The meeting will begin at approximately 8:30 a.m. and conclude at approximately 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number

of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209.

Signed at Washington, D.C. this 17th day of July, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-22787 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL CREDIT UNION ADMINISTRATION

Central Liquidity Facility; Publication of Proposed Loan Agreements

AGENCY: National Credit Union Administration.

ACTION: Publication of Proposed Lending Agreements of the National Credit Union Administration Central Liquidity Facility.

SUMMARY: The National Credit Union Administration Central Liquidity Facility (Facility) is publishing for review, and will accept comment on, the repayment, security and credit reporting agreements it proposes to use in extending credit to Regular and Agent members of the Facility, including the agreements that the Facility will require Agent members to use when relending Facility funds.

DATE: Comments must be received by August 6, 1979.

ADDRESS: Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, Room 4202, National Credit Union Administration, 2025 M Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Mark Medvin, Attorney-Advisor, Office of General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION:

1. Background

The National Credit Union Administration Central Liquidity Facility was created by the National Credit Union Central Liquidity Facility Act, Title XVIII of Pub. L. 95-630, to improve general financial stability by meeting the liquidity needs of credit unions. The Facility will be a part of the National Credit Union Administration (NCUA) and will be managed by the NCUA Board.

On May 4, 1979, NCUA proposed for public comment a regulation pertaining to Facility membership and lending (44 FR 26115). In the proposal on lending, NCUA indicated that the agreements to be used for loans from the Facility to Regular and Agent members, as well as for loans of Facility funds from Agent members to the credit unions served by them, would be included in the final regulations.

NCUA is not required to publish notice or solicit public comment on these agreements because they consitute matters pertaining to loans and contracts and are exempted from the Admininstrative Procedures Act rulemaking requirements regarding public participation under 5 U.S.C. 553(a)(2). (Also see *Housing Authority of the City of Omaha, Nebraska v. U.S. Housing Authority*, 468 F.2d 1 (8th Cir. 1972).) For this same reason, these agreements are exempt from NCUA's regulation requiring solicitation of public comment on rules and regulations under 12 C.F.R. 720.8(b).

Nevertheless, NCUA believes that publication of these agreements for the review and comments of interested parties prior to finalizing the agreements in the final Lending Regulation will be helpful to NCUA in consideration of these agreements. Interested parties are invited to submit relevant data, views or comments. Any such material should be submitted in writing to Mr. Robert Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW., Washington, DC 20456.

Authority: Sec. 1802 (306(a)(2)), 92 Stat. 3721 (12 U.S.C. 1795e(a)(2)).

Lawrence Connell,

Chairman.

July 18, 1979.

Repayment, Security, and Credit Reporting Agreements

(a) The repayment, security, and credit reporting agreement between the Facility and a Regular member is as follows:

Parties

(1) This agreement is between the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility") and a Regular member of the Facility (hereinafter "the Regular member"). It becomes effective when signed by the Regular member and the Facility and shall remain in effect as long as the Regular member is a member of the Facility or there is any unpaid repayment obligation hereunder between the Regular member and the Facility.

(2) All advances of Facility funds to the Regular member are subject to the terms and conditions of this agreements and to applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The Regular member shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each advance of Facility funds, the Facility shall issue a confirmation of credit (herein after the "confirmation") which shall be sent to the Regular member. The confirmation may be issued before or after the date of the advance and shall be in such form and sent in such manner as may be determined by the Facility. The confirmation shall specify the date and amount of the advance, the interest rate, the maturity date, the prepayment penalty (if applicable), and the liquidity needs for which the Facility funds are advanced (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The confirmation may also specify the manner in which the Regular member must pay the Facility on the maturity date.

(4) Each advance of Facility funds shall be used by the Regular member solely for the liquidity needs for which such funds were advanced, as specified in the confirmation issued by the Facility in connection with the advance.

(5) When the Regular member receives an advance of Facility funds, a repayment obligation is created whereby the Regular member, for value received, agrees:

(i) To pay to the Facility on the maturity date an amount equal to the amount of the advance plus interest from the date of the advance through the maturity date. The Regular member shall have the right to prepay the

obligation in full prior to maturity, in which case, interest will be computed through the date of prepayment, and the Facility may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay to the Facility reasonable expenses of collection, including the reasonable attorney's fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due from the maturity date through the date of payment in full at an interest rate equal to the interest rate used to determine interest from the date of the advance through the maturity date. The Facility may waive any part or all of the late payment charge and interest payable after maturity.

The "date of the advance," the "maturity date," the "amount of the advance" and the "prepayment penalty" are the dates, amount, and penalty specified as such in the confirmation issued by the Facility in connection with the advance. Interest shall be determined by using the interest rate specified in such confirmation.

Security

(6) As security for all repayment obligations created hereunder, whenever created, the Regular member grants a security interest in favor of the Facility in the following property of the Regular member, whenever acquired (hereinafter, the "collateral"):

(i) All notes, instruments, and other monetary obligations (whether written or unwritten) which evidence or represent a right of the Regular member to the payment or repayment of money;

(ii) All chattel paper, as defined in the Uniform Commercial Code;

(iii) All securities (whether or not represented by instruments), including shares in the capital stock of the Facility;

(iv) All demand, time, savings, passbook and like accounts, including share accounts, maintained with a bank, savings and loan association, credit union or like organization;

(v) Money, as defined in the Uniform Commercial Code;

(vi) All general intangibles, as defined in the Uniform Commercial Code; and

(vii) The proceeds of all such notes, instruments, monetary obligations, chattel paper, securities, accounts, money and general intangibles.

(7) The Facility shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral, either by filing or by taking or retaining possession thereof. If perfection is by filing, the Regular member shall sign a financing statement and such other papers as may be appropriate for filing and shall pay all necessary filing fees. If perfection is by taking possession, the Regular member shall take such action as may be necessary to transfer possession to the Facility, including delivery to the Facility or its designee at the expense of the Regular member.

(8) Except as permitted by the Facility, an obligation of the Regular member to another party shall not be secured by a security interest in the collateral at any time while the Regular member owes any amount to the Facility on any repayment obligation created hereunder.

(9) The amounts owed to the Facility on all repayment obligations created hereunder shall become immediately due and payable to the Facility, without any demand or notice, upon:

(i) The failure of the Regular member to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the Regular member to pay any other obligation to the Facility when due; or

(iii) The failure to comply with the terms of any representation made by the Regular member to the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the Regular member; or

(v) An assignment for the benefit of creditors of the Regular member; or

(vi) The closing or suspension or revocation of the charter of the Regular member, or the taking possession of its business, by any governmental authority; or

(vii) The Regular member's use of the proceeds of any advance for a purpose other than the liquidity needs for which the advance was made; or

(viii) The withdrawal of the Regular member from membership in the Facility.

The occurrence of any of the events described in subparagraphs (9)(i) through (9)(viii) hereof shall constitute a default under this agreement. The term "insolvency" in subparagraph 9(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(10) Upon the occurrence of a default under this agreement, or at any time thereafter, the Facility shall have all the rights and remedies provided under the Uniform Commercial Code and under this agreement, including but not limited to the following: the Facility may—

(i) Take or retain possession of the collateral, or any part thereof, or

(ii) Collect the proceeds of the collateral, or

(iii) Notify obligors on the collateral to make payments to the Facility, or

(iv) Sell or otherwise dispose of any part or all of the collateral at public or private proceedings, or

(v) Buy the collateral or any part thereof, or

(vi) Retain the collateral, or any part therof, in satisfaction of any part or all of the obligations secured by the collateral.

The proceeds of the collateral, including the proceeds of sale or other disposition thereof, shall be applied by the Facility (A) first, to the reasonable expenses of collecting such proceeds and of taking, holding, and selling the collateral, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the Regular member. If there is a deficiency, the Regular member shall be liable for the deficiency. If the Facility is indebted to the Regular member, the Facility shall have the right to set-off such indebtedness against all amounts due the Facility on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(11) The Regular member shall file such reports and provide such information as may be required by the Facility from time to time.

Construction and Modification

(12) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations

prescribed by the NCUA Board on behalf of the Facility shall have the same meanings when used in this agreement.

(13) This agreement may be modified from time to time by the NCUA Board. Any such modification shall bae published in the **Federal Register** and shall become a part of this agreement as of the effective date specified in the **Federal Register.** The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(b) If an Agent member is a central credit union, the repayment, security, and credit reporting agreement between the Facility and the Agent member is as follows:

Parties

(1) This agreement is between the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility") and a central credit union which is an Agent member of the Facility (hereinafter "the Agent"). This agreement becomes effective when signed by the Agent and the Facility. This agreement shall remain in effect as long as the Agent is a member of the Facility or there is any unpaid repayment obligation hereunder between the Agent and the Facility.

(2) All advances of Facility funds to the Agent are subject to this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The Agent shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each advance of Facility funds to the Agent, the Facility shall issue a confirmation of credit (hereinafter the "confirmation") which shall be sent to the Agent. The confirmation may be issued before or after the date of the advance and shall be in such form and sent in such manner as may be determined by the Facility. The confirmation shall specify the date and amount of the advance, the interest rate, the maturity date, the prepayment penalty (if applicable), the liquidity needs for which the Facility funds are advanced (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit), the names of the Agent's member natural person credit unions whose liquidity needs are being met by the advance, and the amount of the loan that is to be made by the Agent to each such member natural person credit union. The confirmation may also specify the manner in which the Agent must pay the Facility on the maturity date.

(4) When the Agent receives an advance of Facility funds, a repayment obligation is created whereby the Agent, for value received, agrees:

(i) To pay to the Facility on the maturity date an amount equal to the amount of the advance plus interest from the date of the advance through the maturity date. The Agent shall have the right to prepay the obligation in full prior to maturity, in which case, interest will be computed through the date of prepayment, and the Facility may impose s prepayment penalty; or

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the Facility reasonable expenses of collection, including the reasonable attorney's fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due from the maturity date through the date of payment in full at an interest rate equal to the interest rate used to determine interest from the date of the advance through the maturity date. The Facility may waive any part or all of the interest payable after the maturity date.

The "date of the advance," the "maturity date," the "amount of the advance" and the "prepayment penalty" are the dates, amount, and penalty specified as such in the confirmation issued by the Facility in connection with the advance. Interest from the date of the advance through the maturity date (or date or prepayment) shall be determined by using the interest rate specified in such confirmation.

Relending

(5) In connection with each extension of credit approved by the Facility: (i) The Agent's application to the Facility must be based upon one or more applications from its member natural person credit unions requesting extensions of credit for liquidity needs in the amount requested by the Agent. The Agent's application must contain a list of such credit unions showing, for each credit union, the amount requested and the liquidity needs that would be met (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The Agent's application must also contain such certifications and other information as may be required by the Facility and the rules and regulations prescribed by the NCUA Board on behalf of the Facility. An application from a member natural person credit union cannot be used as a basis for an Agent's application until such credit union has signed the repayment, security and credit reporting agreement required by the Facility and a signed copy of such agreement has been filed and retained with the permanent records of the Agent.

(ii) The full amount of each advance of Facility funds to the Agent shall be loaned by the Agent to the member natural person credit unions whose liquidity needs are being met by the advance, as specified in the confirmation issued by the Facility in connection with the advance. The amount of the loan to each such credit union shall be the amount specified as such in such confirmation. The date of the loan and the interest rate and maturity date on the loan (hereinafter an "Agent loan") shall be the same, respectively, as the date of the advance and the interest rate and maturity date specified for the Agent in such confirmation. All such Agent loans to member natural person credit unions shall be in accordance with the terms and conditions of the repayment, security, and credit reporting agreements signed by such credit unions, and no promissory note or additional agreement shall be signed or apply with respect to any repayment obligation arising out of any such loan. All such repayment obligations shall have the status of general intangibles under the Uniform Commercial Code.

(iii) The Agent shall promptly notify the Facility of any default on any repayment obligation arising out of any such Agent loan to a member natural person crdit union.

(6) The Agent shall maintain a separate account or record for each member natural person credit union to which Agent loans have been made. The separate account or record shall identify each Agent loan and show all amounts loaned and repaid on such loan.

(7) The Agent shall comply with all the terms and conditions imposed on the Agent in the repayment, security and credit reporting agreements signed by its member natural person credit unions.

Security

(8) As security for all repayment obligations created hereunder, whenever created, the Agent grants a security interest in favor of the Facility

in the following property, whenever acquired (hereinafter the "collateral"):

(i) All repayment obligations from member natural person credit unions to the Agent, whenever created, arising out of Agent loans to such credit unions pursuant to the requirements of this agreement; and

(ii) The security interests granted by such credit unions as security for such repayment obligations.

(9) The Facility shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral. Perfection shall be by filing in accordance with the filing requirements for general intangibles under the Uniform Commercial Code and other applicable laws. The Agent agrees to sign a financing statement and such other papers as may be appropriate for filing and to pay all necessary filing fees.

(10) The Agent shall not sell or otherwise transfer the collateral to, or create any security interest in the collateral in favor on any party other than the Facility.

(11) The amounts owed to the Facility on all repayment obligations created hereunder shall become immediately due and payable to the Facility, without any demand or notice, upon:

(i) The failure of the Agent to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the Agent to pay any other obligation to the Facility when due; or

(iii) The failure to comply with the terms of any representation made by the Agent to the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the Agent; or

(v) An assignment for the benefit of creditors of the Agent; or

(vi) The closing or suspension or revocation of the charter of the Agent, or the taking possession of its business, by any governmental authority; or

(vii) The withdrawal of the Agent from membership in the Facility.

The occurrence of any of the events described in subparagraphs 11(i) through 11(vii) shall constitute a default under this agreement. The term "insolvency" in subparagraph 11(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(12) Upon the occurence of a default under this agreement, or at any time thereafter, the Facility shall have all the rights and remedies provided under the Uniform Commercial Code and under this agreement, including but not limited to the following: the Facility may, in its own name or in the name of the Agent,

(i) Notify member natural person credit unions to make payments to the Facility on any one or more of the repayment obligations of such credit unions which constitute the collateral under this agreement,

(ii) Collect the amounts due on any one or more of the repayment obligations of such credit unions by any available judicial procedure,

(iii) Enforce the security interests granted by such credit unions as security for such repayment obligations,

(iv) Exercise all the rights and remedies of the Agent with respect to such security interests, including enforcement of such security interests in any available judicial procedure, and

(v) Sell or otherwise dispose of any one or more of such repayment obligations of such credit unions, together with the security interests securing such repayment obligations, at public or private proceedings.

The proceeds of such repayment obligations of such credit unions, including the proceeds of the sale or other disposition thereof, shall be applied by the Facility (A) first, to the reasonable expenses of collecting such proceeds and of selling such repayment obligations of such credit unions, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the Agent. If there is a deficiency, the Agent shall be liable for the deficiency. If the Facility is indebted to the Agent, the Facility shall have the right to set-off such indebtedness against all amount due the Facility on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(13) The Agent shall file such reports and provide such information as may be required by the Facility from time to time.

Construction and Modification

(14) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(15) This agreement may be modified from time to time by the NCUA Board. Any such modification shall be published in the **Federal Register** and shall become a part of this agreement as of the effective date specified in the **Federal Register.** The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(c) If an Agent member is a group of central credit unions, there shall be a repayment, security and credit reporting agreement between the Facility and one of the central credit unions in the group (hereinafter the "representative central credit union"), and there shall be a repayment, security and credit reporting agreement between that central credit union and each of the other central credit unions in the group (hereinafter a "local central credit union"). The repayment, security, and credit reporting agreement between the Facility and a representative central credit union is as follows:

Parties

(1) This agreement is between the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility") and a central credit union (hereinafter "the representative central credit union"). The representative central credit union is one of the central credit unions in a group of central credit unions (hereinafter "the Agent group") which is an Agent member of the Facility, and has been designated as the representative central credit union by the other credit unions in the group in their applications for membership in the Facility as part of the Agent group. This agreement becomes effective when signed by the representative central credit union and the Facility. This agreement shall remain in effect as long as the Agent group is a member of the

Facility or there is any unpaid repayment obligations hereunder between the representative central credit union and the Facility.

(2) All advances of Facility funds to the representative central credit union are subject to this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The representative central credit union shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each advance of Facility funds to the representative central credit union, the Facility shall issue a confirmation of credit (hereinafter the "confirmation") which shall be sent to the representative central credit union. The confirmation may be issued before or after the date of the advance and shall be in such form and sent in such manner as may be determined by the Facility. The confirmation shall specify the date and amount of the advance, the interest rate, the maturity date, the prepayment penalty (if applicable), the liquidity needs for which the Facility funds are advanced (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit), the names of the member natural person credit unions whose liquidity needs are being met by the advance, the amount of the loan that is to be made to each such member natural person credit union, and the name of the central credit union in the Agent group that will make such loans to such member natural person credit unions. The confirmation may also specify the manner in which the representative central credit union must pay the Facility on the maturity date.

(4) When the representative central credit union receives an advance of Facility funds, a repayment obligation is created whereby the representative central credit union, for valued received, agrees:

(i) To pay to the Facility on the maturity date an amount equal to the amount of the advance plus interest from the date of the advance through the maturity date. The representative central credit union shall have the right to prepay the obligation in full prior to maturity in which case interest will be computed through one date of prepayment, and the Facility may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the Facility reasonable expenses of collection, including the reasonable attorneys' fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due on the maturity date at an interest rate equal to the interest rate used to determine interest from the date of the advance through the maturity date. The Facility may waive any part or all of the interest payable after the maturity date. The "date of the advance," the "maturity date", the "amount of the advance" and the "prepayment penalty" are the dates, amount and penalty specified as such in the confirmation issued by the Facility in connection with the advance. Interest from the date of the advance through the maturity date (or date of prepayment) shall be determined by using the interest rate specified in such confirmation.

Relending

(5) In connection with each extension of credit approved by the Facility:

(i) The application of the representative central credit union to the Facility must be based upon applications from one or more of the central credit unions in the Agent group (hereinafter a "local central credit union"), and the applications from such local central credit unions must be based upon one or more applications from member natural person credit unions requesting extensions of credit for liquidity needs in the amount requested. The application of the representative central credit union must contain a list of such member natural person credit unions showing, for each credit union, the amount requested and the liquidity needs that would be met (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The application of the representative central credit union must also contain such certifications and other information as may be required by the Facility and the rules and regulations prescribed by the NCUA Board on behalf of the Facility. An application from a local central credit union cannot be used as a basis for an application of the representative central credit union until the local central credit union has signed the repayment, security and credit reporting agreement required by the Facility, and a signed copy of such agreement has been filed and retained with the permanent records of the representative central credit union.

(ii) The full amount of each advance of Facility funds to the representative central credit union shall be loaned by the representative central credit union to the local central credit union(s) that will make the loans to member natural person credit unions, as specified in the confirmation issued by the Facility in connection with the advance. The date of the loan(s) and the interest rate and maturity date on an "Agent loan" shall be the same, respectively, as the date of the advance and the interest rate and maturity date specified for the representative central credit union in such confirmation. All such Agent loans to local central credit unions shall be in accordance with the terms and conditions of the repayment, security, and credit reporting agreements signed by such local central credit unions, and no promissory note or additional agreement shall be signed or apply with respect to any repayment obligation arising out of any such loan. All such repayment obligations shall have the status of general intangibles under the Uniform Commercial Code.

(iii) The representative central credit union shall promptly notify the Facility of any default on any repayment obligation arising out of any such Agent loan to a local central credit union.

(6) The representative central credit union shall maintain a separate account or record for each local central credit union to which Agent loans have been made. The separate account or record shall identify each Agent loan and show all amounts loaned and repaid on such loan.

(7) The representative central credit union shall comply with all the terms and conditions imposed on it in the repayment, security and credit reporting agreements signed by central credit unions in its Agent group.

Security

(8) As security for all repayment obligations created hereunder, whenever created, the representative central credit union grants a security interest in favor of the Facility in the following property, whenever acquired (hereinafter the "collateral"):

(i) All repayment obligations from local central credit unions to the representative central credit union, whenever created, arising out of Agent loans to such local central credit unions pursuant to the requirements of this agreement; and

(ii) The security interests granted by such local central credit unions as security for such repayment obligations.

(9) The Facility shall have the right at any time to perfect the security interest

granted hereunder with respect to any part or all of the collateral. Perfection shall be by filing in accordance with the filing requirements for general intangibles under the Uniform Commercial Code and other applicable laws. The representative central credit union agrees to sign a financing statement and such other papers as may be appropriate for filing and to pay all necessary filing fees.

(10) The representative central credit union shall not sell or otherwise transfer the collateral to, or create any security interest in the collateral in favor of any party other than the Facility.

(11) The amounts owed to the Facility on all repayment obligations created hereunder shall become immediately due and payable to the Facility, without any ge a24jy3.063demand or notice, upon:

(i) The failure of the representative central credit union to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the representative central credit union to pay any other obligation to the Facility when due; or

(iii) The failure of the representative central credit union to comply with the terms of any representation made by it to the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the representative central credit union; or

(v) An assignment for the benefit of creditors of the representative central credit union; or

(vi) The closing or suspension or revocation of the charter of the representative central credit union, or the taking possession of its business, by any governmental authority; or

(vii) The withdrawal of the Agent group from membership in the Facility. The occurrence of any of the events described in subparagraphs 11(i) through 11(vii) shall constitute a default under this agreement. The term "insolvency" in subparagraph 11(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(12) Upon the occurrence of a default under this agreement, or at any time thereafter, the Facility shall have all the rights and remedies provided under this agreement, including but not limited to the following: the Facility may, in its own name or in the name of the representative central credit union.

(i) Notify local central credit unions to make payments to the Facility on any one or more of the repayment obligations of such local central credit unions which constitute the collateral under this agreement,

(ii) Collect the amounts due on any one or more of such repayment obligations of such local central credit unions by any available judicial procedures,

(iii) Enforce the security interests granted by such local central credit unions as security for such repayment obligations,

(iv) Exercise all the rights and remedies of the representative central credit union with respect to such security interests, including enforcement of such security interests in any available judicial procedure, and

(v) Sell or otherwise dispose of any one or more of such repayment obligations of such local central credit unions, together with the security interests securing such repayment obligations, at public or private proceedings. The proceeds of such repayment obligations of such local central credit unions, including the proceeds of the sale or other disposition thereof, shall be applied by the Facility (A) first, to the reasonable expenses of collecting such proceeds and of selling such repayment obligations of such local central credit unions, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the representative central credit union. If there is a deficiency, the representative central credit union shall be liable for the deficiency. If the Facility is indebted to the representative central credit union, the Facility shall have the right to set-off such indebtedness against all amounts due the Facility on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(13) The representative central credit union shall file such reports and provide such information as may be required by the Facility from time to time.

Construction and Modification

(14) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meanings when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(15) This agreement may be modified from time to time by the NCUA Board. Any such modification shall be published in the **Federal Register** and shall become a part of this agreement as of the effective date specified in the **Federal Register.** The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(d) The repayment, security and credit reporting agreement between a representative central credit union and a local central credit union is as follows:

Parties

(1) This agreement is between two central credit unions (hereinafter the "representative central credit union" and the "local central credit union") in a group of central credit unions (hereinafter "the Agent group") which is a member of the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility"). The representative central credit union was designated as such by the local central credit union in its application for membership in the Facility as part of the Agent group. This agreement becomes effective when signed by the local central credit union. This agreement shall remain in effect as long as the Agent group is a member of the Facility or there is any unpaid repayment obligation hereunder between the local central credit union and the representative central credit union.

(2) All loans hereunder from the representative central credit union to the local central credit union are subject to this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The parties to this agreement shall

perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) in connection with each loan hereunder from the representative central credit union to the local central credit union, the representative central credit union shall issue or provide a confirmation of credit (hereinafter the "confirmation") which shall be sent to the local central credit union. The confirmation may be issued or provided before or after the date of the loan and shall be in such form and sent from such source and in such manner as may be determined by the representative central credit union with the approval of the Facility. The confirmation shall specify the date and amount of the loan, the interest rate, the maturity date, the prepayment penalty (if applicable), the liquidity needs for which the loan is made (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit), the names of the member natural person credit unions whose liquidity needs are being met by the loan, and the amount of the loan that is to be made by the local central credit union to each such member natural person credit union. The confirmation shall also contain a statement that "This loan is made in accordance with the terms and conditions of the repayment, security and credit reporting agreement between the parties under the rules and regulations of the National Credit Union Adminstration Central Liquidity Facility." The confirmation may also specify the manner in which the local central credit union must pay the representative central credit union on the maturity date. A copy or record of the confirmation and a record of the date and manner sent shall be retained in the permanent records of the representative central credit union.

(4) When the local central credit union receives funds loaned hereunder, a repayment obligation is created whereby the local central credit union, for value received, agrees:

(i) To pay to the representative central credit union on the maturity date an amount equal to the amount of the loan plus interest from the date of the loan through the maturity date. The local central credit union shall have the right to prepay the obligation in full prior to maturity, in which case interest will be computed through the date of prepayment, and the representative central credit union may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the representative central credit union reasonable expenses of collection, including the reasonable attorneys' fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due on the maturity date at an interest rate equal to the interest rate used to determine interest from the date of the loan through the maturity date. The representative central credit union, with the approval of the Facility, may waive any part or all of the interest payable after the maturity date.

The "date of the loan," the "maturity date," the "amount of the loan" and the "prepayment penalty" are the dates, amount and penalty specified as such in the confirmation issued by the representative central credit union in connection with the loan. Interest from the date of the loan through the maturity date (or date of prepayment) shall be determined by using the interest rate specified in such confirmation.

Relending

(5) In connection with each loan hereunder from the representative central credit union to the local central credit union:

(i) There must be an application from the local central credit union to the representative central credit union. The application must be in such form as may be approved by the Facility, and the application must be based upon one or more applications from its member natural person credit unions requesting extensions of credit for liquidity needs in the amount requested. The application of the local central credit union must contain a list of such member natural person credit unions showing, for each credit union, the amount requested and the liquidity needs that would be met (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The application of the local central credit union must also contain such certifications and other information as may be required by the Facility and the rules and regulations prescribed by the NCUA Board on behalf of the Facility. An application from a member natural person credit union cannot be used as a basis for an application of the local central credit union until such member natural person credit union has signed the repayment, security and credit reporting agreement required by the Facility, and a signed copy of such agreement has been filed and retained with the permanent records of the local central credit union.

(ii) The full amount of each loan hereunder from the representative central credit union to the local central credit union shall be loaned by the local central credit union to the member natural person credit unions whose liquidity needs are being met by the advance, as specified in the confirmation issued by the representative central credit union in connection with the loan. The amount of the loan to each such credit union shall be the amount specified as such in such confirmation. The date of the loan to each such credit union (hereinafter an "Agent loan") and the interest rate and maturity date thereon shall be the same, respectively, as the date of the loan and the interest rate and maturity date specified for the local central credit union in such confirmation. All such Agent loans to member natural person credit unions shall be in accordance with the terms and conditions of the repayment, security and credit reporting agreements signed by such credit unions, and no promissory note or additional agreement shall be signed or apply with respect to any repayment obligation arising out of any such loan. All such repayment obligations shall have the status of general intangibles under the Uniform Commercial Code.

(iii) The local central credit union shall promptly notify the representative central credit union of any default on any repayment obligation arising out of any such Agent loan to a member natural person credit union.

(6) The local central credit union shall maintain a separate account or record for each member natural person credit union to which Agent loans have been made. The separate account or record shall identify each Agent loan and show all amounts loaned and repaid on such loan.

(7) The local central credit union shall comply with all terms and conditions imposed on it in the repayment, security and credit reporting agreements required by the Facility to be signed by member natural person credit unions.

Security

(8) As security for all repayment obligations created hereunder, whenever created, the local central credit union grants a security interest in favor of the representative central credit union in the following property, whenever acquired (hereinafter the "collateral"):

(i) All repayment obligations from member natural person credit unions to the local central credit union, whenever, created, arising out of Agent loans to such member natural person credit

unions pursuant to the requirements of this agreement, and

(ii) The security interests granted by such member natural person credit unions as security for such repayment obligations.

(9) The representative central credit union shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral. Perfection shall be by filing in accordance with the filing requirements for general intangibles under the Uniform Commercial Code and other applicable laws. The local central credit union agrees to sign a financing statement and such other papers as may be appropriate for filing and to pay all necessary filing fees.

(10) The local central credit union shall not sell or otherwise transfer the collateral to, or create any security interest in the collateral in favor of any party other than the representative central credit union.

(11) The amounts owed to the representative central credit union on all repayment obligations created hereunder shall become immediately due and payable to the representative central credit union, without any demand or notice, upon:

(i) The failure of the local central credit union to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the local central credit union to pay any other obligation to the representative central credit union when due; or

(iii) The failure of the local central credit union to comply with the terms of any representation made by it to the representative central credit union of the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the local central credit union; or

(v) An assigment for the benefit of creditors of the local central credit union; or

(vi) The closing or suspension or revocation of the charter of the local central credit union, or the taking possession of its business, by any governmental authority; or

(viii) The withdrawal of the Agent group from membership in the Facility. The occurrence of any of the events described in subparagraphs 11(i) through 11(vii) shall constitute a default under this agreement. The term "insolvency" in subparagrah 11(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The representative central credit union with the approval of the Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(12) Upon the occurrence of a default under this agreement, or at any time thereafter, the representative central credit union shall have all the rights and remedies provided under this agreement, including but not limited to the following: The representative central credit union may, in its own name or in the name of the local central credit union.

(i) Notify member natural person credit unions to make payments to the representative central credit union on any one or more of the repayment obligations of such member natural person credit unions which constitute the collateral under this agreement,

(ii) Collect the amounts due on any one or more of such repayment obligations of such member natural person credit unions in any available judicial procedures,

(iii) Enforce the security interests granted by such member natural person credit unions as security for such repayment obligations,

(iv) Exercise all the rights and remedies of the local central credit union with respect to such security interests, including enforcement of such security interests in any available judicial procedure, and

(v) Sell or otherwise dispose of any one or more of such repayment obligations of such member natural person credit unions, together with the security interests securing such repayment obligations, at public or private proceedings. The proceeds of such repayment obligations of such member natural person credit unions, including the proceeds of the sale or other disposition thereof, shall be applied by the representative central credit union (A) first, to the reasonable expenses of collecting such proceeds and of selling such repayment obligations of such member natural person credit unions, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the local central credit union. If there is a deficiency, the local central credit union shall be liable for the deficiency. If the representative central credit union is indebted to the local central credit union, the representative central credit union shall have the right to set-off such indebtedness against all amounts due the representative central credit union on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(13) The local central credit union shall file such reports and provide such information as may be required from time to time by the Facility or by the representative central credit union with the approval of the Facility.

Construction and Modification

(14) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherswise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(15) This agreement may be modified from time to time by the NCUA Board. Any such modification shall be published in the **Federal Register** and shall become a part of this agreement as of the effective date specified in the **Federal Register.** The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(e) If an Agent member is a central credit union, there shall be a repayment, security and credit reporting agreement between the Agent member and each member natural person credit union to which loans are made pursuant to the requirements of the repayment, security and credit reporting agreement between the Facility and the Agent member. If an Agent member is an Agent group, there shall be a repayment, security and credit reporting agreement between each local central credit union in the Agent group and each of the local central credit union's member natural person credit union to which loans are made pursuant to the requairements of a repayment, security and credit reporting agreement between the local central credit union

and a representative central credit union. The repayment, security, and credit reporting agreement between the Agent member or local central credit union, as applicable, and the member natural person credit union is as follows:

Parties

(1) This agreement is between a central credit union (hereinafter "the central credit union") and a natural person credit union (hereinafter "the credit union") which is a member of the central credit union. The central credit union is either:

(i) An Agent member of the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility"), or

(ii) One of a group of central credit unions which is an Agent member of the Facility.

This agreement becomes effective when signed by the credit union and shall remain in effect as long as the credit union is a member of the central credit union and there is any unpaid repayment obligation hereunder between the credit union and the central credit union.

(2) All loans hereunder from the central credit union to the credit union are subject to the terms and conditions of this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The credit union shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each loan hereunder from the central credit union to the credit union, the central credit union shall issue or provide a confirmation of credit (hereinafter the "confirmation") which shall be sent to the credit union. The confirmation may be issued or provided before or after the date of the advance and shall be in such form and sent from such source and in such manner as may be determined by the central credit union with the approval of the Facility. The confirmation shall specify the date and amount of the loan, the interest rate, the maturity date, the prepayment penalty (if applicable), and the liquidity needs for which the loan is made (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The confirmation shall also contain a statement that "This loan is made in accordance with the terms and conditions of the repayment, security and credit reporting agreement between the parties under the rules and regulations of the National Credit Union Administration Central Liquidity Facility." The confirmation may also specify the manner in which the credit union may pay the central credit union on the maturity date. A copy or record of the confirmation and a record of the date and manner sent shall be retained in the permanent records of the central credit union.

(4) The funds loaned hereunder to the credit union needs for which such funds were loaned, as specified in the confirmation issued by the central credit union in connection with the loan.

(5) When the credit union receives funds loaned hereunder, a repayment obligation is created whereby the credit union, for value received, agrees:

(i) To pay to the central credit union on the maturity date an amount equal to the amount of the loan plus interest from the date of the loan through the maturity date. The credit union shall have the right to prepay the obligation in full prior to maturity, in which case interest will be computed through the date of prepayment, and the central credit union may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the central credit union reasonable expenses of collection, including the reasonable attorneys' fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due on the maturity date at an interest rate of the amount due on the maturity date at an interest rate equal to the interest rate used to determine interest from the date of the loan through the maturity date. The central credit union may waive any part or all of the interest payable after the maturity date.

The "date of the loan," the "maturity date," the "amount of the loan," and the "prepayment penalty" are the dates, amount and penalty specified as such in the confirmation issud by the central credit union in connection with the loan. Interest from the date of the loan through the maturity date (or date or prepayment) shall be determined by using the interest rate specified in such confirmation.

Security

(6) As security for all repayment obligations created hereunder, whenever created, the credit union grants a security interest in favor of the central credit union in the following property of the credit union, whenever acquired (hereinafter the "collateral"):

(i) All notes, instruments, and other monetary obligations (whether written or unwritten) which evidence or represent a right of the credit union to the payment or repayment of money;

(ii) All chattel paper, as defined in the Uniform Commercial Code;

(iii) All securities (whether or not represented by instuments), including shares in the capital stock of the Facility;

(iv) All demand, time, savings, passbook and like accounts, including share accounts, maintained with a bank, savings and loan association, credit union or like organization;

(v) Money, as defined in the Uniform Commerical Code;

(vi) All general intangibles, as defined in the Uniform Commercial Code; and

(vii) The proceeds of all such notes, instruments, monetary obligations, chattel paper, securities, accounts, money and general intangibles.

(7) The central credit union shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral, either by filing or by taking or retaining possession thereof. If perfection is by filing, the credit union shall sign a financing statement and such other papers as may be appropriate for filing and shall pay all necesary filing fees. If perfection is by taking possession, the credit union shall take such action as may be necessary to transfer possession to the central credit union, including delivery to the central credit union or its designee at the expense of the credit union.

(8) Except as otherwise permitted by the central credit union with the approval of the Facility, an obligation of the credit union to another party shall not be secured by a security interest in the collateral at any time while the credit union owes any amount to the central credit union on any repayment obligation created hereunder.

(9) The amounts owed to the central credit union on all repayment obligations created hereunder shall become immediately due and payable, without any demand or notice, upon:

(i) The failure of the credit union to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the credit union to pay any other obligation to the central credit union when due; or

(iii) The failure to comply with the terms of any representation made by the credit union to the central credit union or the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the credit union; or

(v) An assignment for the benefit of creditors of the credit union; or

(vi) The closing or suspension or revocation of the charter of the credit union, or the taking possession of its business, by any governmental authority; or

(vii) The credit union's use of the proceeds of any advance for a purpose other than the purpose for which the advance was made; or

(viii) The withdrawal of the credit union from membership in the central credit union. 10 The occurrence of any of the events described in subparagrphs (9)(i) through (9)(viii) hereof shall consititute a default under this agreement. The term "insolvency" in subparagraph (9)(iv) has the same meaning as it is given in 12 CFR 700.1 (k). The central credit union with the approval of the Facility may waive a default under this agreeement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(10) Upon the occurrence of a default under this agreement, or at any time thereafter, the central credit union shall have all the rights and remedies provided under the Uniform Commercial Code and under this agreement, including but not limited to the following: the central credit union may—

(i) Take or retain possession of the collateral, or any part thereof,

(ii) Collect the proceeds of the collateral,

(iii) Notify obligors on the collateral to make payments to the central credit union,

(iv) Sell or otherwise dispose of any part or all of the collateral at public or private proceedings,

(v) Buy the collateral or any part thereof, and

(vi) Retain the collateral, or any part thereof, in satisfaction of any part or all of the obligations secured by the collateral. 10 The proceeds of the collateral, including the proceeds of sale or other disposition thereof, shall be applied by the central credit union (A) first, to the reasonable expenses of collecting such proceeds and money and of taking, holding, and selling the collateral, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the credit union. If there is a deficiency, the credit union shall be liable for the deficiency. If the central credit union is indebted to the credit union, the central credit union shall have the right to set-off such indebtedness against all amounts due the central credit union on all repayement obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(11) The credit union shall file such reports and provide such information as may be required from time to time by the Facility or by the central credit union with approval of the Facility.

Construction and Modification

(12) This agreement shall be construed under and governed by the law of the District of Columnbia, including the Uniform Commerical Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Colunmbia. Unles the Uniform Commerical Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(13) This agreeemnt may be modified from time to time by the NCUA Board. Any such modifications shall be published in the **Federal Register** and shall become a part of this agreement as of the effective date specified in the **Federal Register.** The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

[FR Doc. 79-22751 Filed 7-23-79; 8:45 am]

BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Implications Re Nuclear Power Plant Design; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design, will hold a meeting on August 8, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Wednesday, August 8, 1979, 1:00 p.m. until the conclusion of business.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full committee.

At the conclusion of the Executive Session, the Subcommittee will discuss with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, state and local officials, and other interested persons, the implications of the Three Mile Island, Unit 2 Accident, including the underlying causes contributing to the accident.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics

to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning this nuclear station can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126

Dated: July, 17, 1979.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 79–22664 Filed 7–23–79; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold an open meeting on August 8, 1979 in Room 1046, 1717 H St., N.W., Washington, DC 20555. Notice of this meeting was published in the **Federal Register** on June 27, 1979 (44 FR 37568).

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926) oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Wednesday, August 8, 1979. The meeting will commence at 8:45 a.m.*

The subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following: (1) Proposed Regulatory Guide 1.136, Revision 2, "Materials, Construction and Testing of Concrete Containments." (Pre Comment)(2) Proposed Limited Revision of Appendix J to 10 CFR Part 50, "Air Locks." (Pre Comment)

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to insure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Gary R. Quittschreiber, the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, DC 20555 or telecopy them to the Designated Federal Employee (202–634–3319) as far in advance of the meeting as practicable. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary R. Quittschreiber, (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 18, 1979.

John C. Hoyle,

Advisory Committee Management Offcier.

[FR Doc. 79–22662 Filed 7–23–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–321]

Georgia Power Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Facility Operating License No. DPR–57, issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment revises the Turbine Control Valve Fast Closure setpoint from >1000 psig to >600 psig on low electohydraulic control oil pressure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 14, 1979, (2) Amendment No. 67 to License No. DPR–57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of July 1979.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 22754 Filed 7–23–79; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New Routine Use

AGENCY: Office of Personnel Management.

ACTION: Proposal for a new routine use for an existing system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to 5 U.S.C. 552a(e)(11) of the Privacy Act of 1974, of intent to establish a new routine use, for limited duration, covering the disclosure of information to the Department of Health, Education, and Welfare (DHEW) from the Central Personnel Data File (CPDF) for current Federal employees.

COMMENT DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before August 23, 1979.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation, Room 6410, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415. Comments received will be made available for public inspection at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Lynch, Agency Compliance and Evaluation, (202) 254–9790.

SUPPLEMENTAL INFORMATION: The published description of the affected system, General Personnel Records (CSC/GOVT–3), appears in the **Federal Register** of September 8, 1978 (43 FR 40106). This system remains operative until superseded by OPM, pursuant to section 902 of the Civil Service Reform Act of 1978, Pub. L. 95–454.

Background: The Office of Inspector General of the Department of Health, Education, and Welfare (DHEW) is authorized under Pub. L. 94–505, section 205(a)(2), to request information necessary to accomplish the duties and responsibilities required by that Act from any Federal agency. As part of an effort to detect and prevent fraud in the Aid to Families with Dependent Children (AFDC) program, DHEW needs information concerning those Federal employees who are receiving AFDC benefits. It should be noted that a current Federal employee who is also receiving AFDC benefits does not necessarily indicate that the benefits are being improperly or fraudulently obtained by that individual.

The most efficient way of comparing individuals who are receiving AFDC benefits with those who are Federal civilian employees is for the Office of Personnel Management to provide certain data from its Central Personnel Data File (CPDF) to DHEW. The release of an individual's name, salary, and duty station is permitted under the current Civil Service Commission regulations implementing the Freedom of Information Act (5 U.S.C. 552) which remain in effect until superseded by OPM. These regulations are found at § 294.702 of Title 5 of the Code of Federal Regulations.

Under the new routine use, in addition to the three data elements cited above, the Office of Personnel Management will provide from the CPDF the individual's Social Security Number, date of birth and work schedule (full time, part time or intermittent) to DHEW. DHEW will then "match" this identifying information with its AFDC files and use the results as an indicator that a more thorough review of the receipient's eligibility to receive payments is required.

Although the Social Security Number, date of birth, and the work schedule of an individual are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching with AFDC records under safeguards established by DHEW to protect against unauthorized data disclosure and to respect individual rights. Disclosure under the proposed routine use will permit DHEW to assure greater integrity of the AFDC benefit program and, additionally, will be compatible with the personnel management responsibility for oversight of Federal employees' conduct, particularly with regard to the requirement that employees pay just financial obligations in a proper and timely manner.

An important limitation associated with the OPM's supplying of the data is that DHEW will not make, nor will they retain copies of the OPM's magnetic tapes containing the information, but will return all the source tapes to the OPM for destruction after use. This will limit the possibility of unauthorized use of the data. In addition, since access is pursuant to a Privacy Act routine use, an accounting of disclosure is made as required by 5 U.S.C. 552a(c).

DHEW will operate this matching project in full compliance with the Office of Management and Budget's supplemental guidance for matching programs (44 FR 23138).

Proposed Routine Use: The proposed routine use which follows will be added to the Civil Service Commission's Government-wide system of General Personnel Records (CSC/GOVT–3). The current notice of this system is published at 43 FR 40106 et seq. (September 8, 1978).

CSC/GOVT–3

SYSTEM NAME:

General Personnel Record-CSC

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

a. Used in the selection process by the agency maintaining the record in connection with appointments, transfers, promotions, or qualifications determinations. To the extent relevant and necessary, it will be furnished upon request to other agencies for the same purpose.

b. Disclosed to other Government agencies maintaining relevant enforcement or other information if necessary to obtain from these agencies information pertinent to decisions regarding hiring or retention.

c. Disclosed to prospective employers or other organizations, at the request of the individual.

d. Disclosed to officials of foreign governments for clearance before employee is assigned to that country.

e. Disclosed to educational institutions for training purposes.

f. Disclosed to the Department of Labor; Veterans Administration; Social Security Administration; Department of Defense; Federal agencies who may have special civilian employee retirement programs; national, State, county, municipal, or other publicly recognized charitable or social security administration agency to adjudicate a claim for benefits under the Bureau of Retirement, Insurance, and Occupational Health's or the recipient's benefit program(s), or to conduct an analytical study of benefits being paid under such program.

g. Disclosed to health insurance carriers contracting with the Commission to provide a health benefits plan under the Federal Employees' Health Benefits Program, to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination of benefits provisions of such contracts.

h. Disclosed to Federal Employees' Group Life Insurance Program in support of an individual's claim for life insurance benefits.

i. Disclosed to labor organizations in response to requests for names of employees and identifying information.

j. If information indicates a possible violation of law, it may be disclosed to law enforcement agencies.

k. Disclosed to district courts to render a decision when an agency has refused to release to current or former Federal employees a record under the Freedom of Information Act.

l. Disclosed to district courts for use in rendering a decision when an agency has refused to release a record to the individual under the Freedom of Information Act (FOIA).

m. Used to provide statistical reports to Congress, agencies, and the public on characteristics of the Federal workforce.

n. Used in the production of summary descriptive statistics and analytical studies. The records may be used to respond to general requests for statistical information (without personal identifier) under FOIA; or to locate

individuals for personnel research or other personnel research functions.

o. Disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

p. Disclosed to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.

q. Disclosed to an agency upon request for determination of an individual's entitlement to benefits in connection with Federal Housing Administrative programs.

r. To provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

s. Used to provide an official of another Federal agency any information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the personnel functions for which the records were collected and are maintained.

t. Disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

u. Used to select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

v. Disclosed to another Federal agency or to a court when the Government is party to a suit before the court.

w. To disclose specific Civil Service employment information required under law by the Department of Defense on individuals identified as members of the ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

x. To disclose the name, date of birth, Social Security Number, salary, work schedule, and duty station location of Federal employees as of March 31, 1979, to the Department of Health, Education, and Welfare in connection with that agency's Aid to Families with Dependent Children (AFDC) matching program. Pursuant to Pub. L. 94–505, the Department of Health, Education, and Welfare is conducting a matching program to reduce fraud and unauthorized payments in Federal programs, and to collect debts owed to the Federal government. This routine use will be operative for a limited period of six months from its effective date.

* * * * *

The comment period on the routine use ends at the close of business 30 days after the date of this notice. This routine use shall be effective, without further notice, on August 26, 1979, unless comments received necessitate changes.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79–22886 Filed 7–23–79; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16037; SR–MSE–78–4]

Midwest Stock Exchange, Inc.; Filing of Amendment to Proposed Rule Change and Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"); notice is hereby given that on May 18, 1979, the Midwest Stock Exchange, Inc. ("MSE") 210 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission copies of an amendment to a proposed rule change (File No. SR–MSE–78–4) which would revise its rules Article XI, Rules 7–10 of the MSE Rules) requiring MSE members to carry Broker's Blanket Bonds (fidelity bonds) covering their officers, employees and partners.

The proposed rule change, as originally submitted (the "Original Porposal"),[1] would have: (a) decreased the amount of coverage required to be carried by members whose required net capital is one million dollars or less; (b) changed the formula for computing the size of the allowable deductible provision; (c) provided that, in certain cases the amount of the deductible is to be counted as a charge against the member's net worth for purposes of the MSE's net capital rule; (d) required that each member of the MSE use a form of fidelity bond approved by the MSE; (e) required that coverage under the bonds be extended to limited partners who act as employees as well as to certain other enumerated persons; and (f) extended the time limits for making any required adjustments in the requisite amount of coverage.

In addition, the original proposal revised the general method of annually computing the requisite amount of coverage so as to possibly lower that amount and created a special computation formula for members entering their second year of business, based upon the member's average required net capital during the preceding twelve months. The amendment to the proposed rule change revises the special formula applicable to members entering their second year of business so as to base that formula on the highest (rather than average) required net capital during the preceding twelve months, and eliminates the proposed change in the general method of annually computing the requisite amount of coverage.

The MSE states that the purpose of the proposed rule change, as amended, is to generally conform the MSE fidelity bonding rule to that of the National Association of Securities Dealers, Inc. ("NASD"), NASD Rules of Fair Practice, Art. III, Sec. 32, so as to facilitate implementation of the provisions of the plan for allocating regulatory responsibilities between the MSE and NASD which was submitted pursuant to 17 CFR 240.17d–2 (the "NASD/MSE 17d–2 Plan") and approved conditionally by the Commission on September 26, 1978.[2]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change, as amended, within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSE–78–4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

[1] Notice of the original proposal was given by issuance of a Commission Release, Securities Exchange Act Rel. No. 14880 (June 22, 1978), and by publication in the **Federal Register**, 43 FR 28273 (June 29, 1978).

[2] Securities Exchange Act Rel. No. 15191 (September 26, 1978).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder. Among other things, that Section permits a registered securities association to deny membership to or condition the membership of a registered broker or dealer if it does not meet such standards of financial responsibility as are prescribed by the rules of the exchange. The Commission believes that the proposed rule change may facilitate the attainment of that objective in a manner which is not designed to permit unfair discrimination among brokers and dealers. In addition, the Commission believes that the effect of the proposed rule change may be to reduce unnecessary burdens on competition by facilitating the ability of smaller broker-dealers to obtain adequate bonding insurance at a reasonable price and by assisting in the implementation of the NASD/MSE 17d–2 Plan which is designed, among other things, to reduce unnecessary regulatory duplication.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed rule change, as amended, generally conforms the MSE fidelity bonding rule to the already existing NASD rule. A proposed rule change with respect to the NASD bonding rule was recently approved by the Commission.[3] No comments were received with respect to that proposed change; nor have any comments been receive with respect to the MSE's original proposal. The Commission believes that approval of the proposed rule change may facilitate the implementation of the NASD/MSE 17d–2 Plan and thus assist in the realization of the goals of that plan.[4]

It is therefore ordered, pursuant to Section 19 (b)(2) of the Act, that the proposed rule change referenced above, as amended, be, and it hereby is, approved.

[3] Securities Exchange Act Rel. No. 15909 (June 11, 1979), 44 FR 35331 (June 17, 1979).

[4] Securities Exchange Act Release No. 15191 at 19 (September 26, 1978).

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22817 Filed 7-23-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500–1]

Strawberry Valley Estates of the Ozarks; Order of Suspension of Trading

July 18, 1979.

It appearing to the Securities and Exchange Commission that there is a lack of current adequate and accurate public information about the operations and financial condition of Strawberry Valley Estates of the Ozarks (Utah) ("SVEO"), the Commission is of the view that the public interest and the protection of investors require a summary suspension of trading in the securities of SVEO, being traded on a national securities exchange or otherwise.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934 that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m. on July 18, 1979 through July 27, 1979.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22813 Filed 7-23-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34–16038; File No. SR–NYSE–79–23]

New York Stock Exchange, Inc., Self-Regulatory Organization, Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on June 21, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The amendments provide for the adoption of a uniform code of arbitration for the securities industry.

Purpose of Proposed Rule Change

The procedures set forth in the proposed Uniform Arbitration Code were developed by the Securities Industry Conference on Arbitration, which is composed of representatives of the New York Stock Exchange and nine other self-regulatory organizations as well as representatives of a securities industry trade association and of the public. It is anticipated that the Uniform Arbitration Code will eventually be adopted by each of these self-regulatory organizations and will provide for a uniform system of arbitration throughout the securities industry. The proposed uniform code will enable each of the self-regulatory organizations to provide investors with a simple and inexpensive procedure for the resolution of controversies they may have with their brokerage firms.

Basis Under the Act

The proposed amendments to the Constitution and Rules are consistent with Section 6(b)(5) of the Act as follows:

(i) Inapplicable.
(ii) Inapplicable.
(iii) Inapplicable.
(iv) Inapplicable.
(v) The Uniform Arbitration Code will provide a more effective, efficient and economical dispute resolution system for the public and the membership and thus will protect investors and the public interest.
(vi) Inapplicable.
(vii) Inapplicable.
(viii) Inapplicable.

Comments Received From Members, Participants or Others

Comments were received from the staff of the Securities and Exchange Commission by letter dated April 5, 1979 to a report by the Securities Industry Conference on Arbitration containing an earlier version of the Uniform Arbitration Code. Based on those comments the procedures were revised as presently submitted.

Burden on Competition

There will be no burden on competition.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-

regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within on or before August 14, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 18, 1979.

[FR Doc. 79-22814 Filed 7-23-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10784; 812-4490]

Whitehall Money Market Trust; Filing of Application for Order of Exemption

July 17, 1979.

Notice is hereby given that Whitehall Money Market Trust ("Applicant"), 1250 Drummers Lane, P.O. Box 1100, Valley Forge, Pennsylvania 19482, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on June 8, 1979, and an amendment thereto on July 11, 1979 for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act, to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its sharees, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC–9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market fund," the investment objective of which is to obtain the maximum current income, consistent with preservation of capital and liquidity, that is available through investments in the following short-term money market instruments: (a) securities issued or guaranteed by the United States Government or any of its agencies and instrumentalities, including securities issued by the United States Treasury, the Federal National Mortgage Association, the Federal Housing Administration, the Tennessee Valley Authority, and others; (b) certificates of deposit and bankers' acceptances of U.S. banks having total assets in excess of $1 billion; (c) commercial paper rated A–1 by Standard & Poor's Corporation or Prime–1 by Moody's Investors Service, Inc. or, if not rated, issued by a corporation having an outstanding unsecured debt issue rated Aa or better by Moody's or AA or better by Standard & Poor's; (d) short-term corporate obligations rated Aa or better by Moody's or AA or better by Standard & Poor's; and (e) securities listed in (a) and (b) which are subject to repurchase agreements, provided that such agreements are limited to transactions with financial institutions believed by Applicant and its investment adviser to present minimal credit risks.

Applicant states that all of its assets are presently invested in securities maturing in less than one year. Applicant further states that it values all its portfolio securities as follows: (a) all securities for which market quotations are readily available are valued at the most recent bid price or yield equivalent as obtained from one or more market makers for such securities, except that any securities maturing within 60 days from the date of acquisition may be valued at cost, plus or minus any amortized discount or premium; and (b) all other securities and assets are valued at fair value determined in good faith by or under supervision of the officers of Applicant as authorized by its Trustees.

Applicant states that its net asset value per share has varied between $9.94 and $10.04 from its initial offering on June 4, 1975, and that on May 31, 1979, it had a net asset value of $9.99. Applicant states that its Trustees, pending approval of this application, have authorized a split-up of Applicant's shares of beneficial interest through a stock dividend, so that after the split-up, each net share will have a net asset value of $1.00. The Trustees have also authorized Applicant to effect sales, redemptions and repurchases of its shares at prices calculated to the nearest one cent on a share having a $1.00 net asset value.

Rule 22c–1 under the Act provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (a) current market value, for portfolio securities with respect to which market quotations are readily available, and (b) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC–9786 the Commission expressed its view, as here pertinent, that it is inconsistent with Rule 2a–4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" such funds' portfolio valuation as required by Rule 2a–4.

On the basis of the foregoing, Applicant submits that without an exemption from the provisions of Rules 2a–4 and 22c–1 under the Act, Applicant may be prohibited from determining its net asset value in the manner set forth above.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that its Trustees believe that the split-up and consequent $1.00 price per share will benefit Applicant and its shareholders. Applicant asserts that its investors prefer that the daily income dividends declared by Applicant reflect income as earned, and that the sales and redemption price remain fixed. Applicant represents that its Trustees have, therefore, concluded that stability of capital and a steady flow of investment income would be of benefit to existing shareholders and a helpful tool in attracting potential investors to Applicant. Applicant asserts that its shareholders would achieve the convenience of being able to determine the value of their holdings simply by knowing the number of shares they own. Also, the task of maintaining an investment record would be made easier for Applicant's shareholders. Applicant also states that the proposed change is expected to eliminate the periodic fluctuation in Applicant's net asset value per share, which has caused Applicant's shareholders to realize

unwanted nominal capital gains and losses upon redemption of their shares.

Applicant submits that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that a substantial number of money market funds now offer their shares to the public at a $1.00 price per share. Applicant represents that, to the extent necessary, Applicant's Trustees will consider the advisability of temporarily suspending payment of dividends, or making a capital gains or other distribution, to maintain a $1.00 price per share, if the net asset value per share declines to a value below $.996 or rises to a value of above $1.004, respectively. Applicant further states that in order to assure the stability of its price per share the following conditions may be imposed in any order granting the exemptions it has requested:

(a) That the Trustees of Applicant, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within their overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that the price per share of Applicant's shares as computed for purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00.

(b) That Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and that Applicant will not (i) purchase an instrument with a remaining maturity of greater than one year (although obligations subject to repurchase agreements may have a maturity in excess of one year), or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

(c) That Applicant's purchases of portfolio instruments, including securities underlying repurchase agreements, will be limited to those money market instruments described hereinabove.

Notice is further given that any interested person may, not later than August 10, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22816 Filed 7-23-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10785; 812-4483]

Willow Fund, Inc.; Application for an Order Granting an Exemption

July 17, 1979.

Notice is hereby given that The Willow Fund, Inc. ("Applicant") Greenville Center, 3801 Kennett Pike, Wilmington, Delaware 19807, an open-end, non-diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 29, 1979, and an amendment thereto on June 26, 1979, pursuant to Section 6(c) of the Act for an order of the Commission exempting Applicant from the provisions of Section 22(d) of the Act to the extent necessary to permit the sale of Applicant's shares at net asset value without imposition of a sales charge to stockholders of record on July 11, 1979. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, since April 19, 1977, two wholly—owned subsidiaries of Delfi American Corporation, WF Advisers ("Advisers") and Delfi Management, Inc., have served as Applicant's investment adviser and subadviser, respectively. Applicant states that its shares are currently offered to the public at net asset value without imposition of a sales charge pursuant to a distribution agreement with Delfi Capital Sales, Inc. ("Distributor"), which also distributes shares of five other investment companies. Under the terms of the agreement, Distributor serves without compensation as sole distributor of Applicant's shares. According to the application, Distributor does not normally sell shares of the investment companies it distributes directly to the public, but instead sells such shares through other dealers. Applicant's shares are the only investment company shares distributed by Distributor without imposition of a sales charge.

Applicant represents that at a Special Meeting of Stockholders held on July 11, 1979, Applicant's shareholders approved the adoption of a new provision in Applicant's Restated Certificate of Incorporation permitting Applicant to enter into a distribution agreement that would authorize imposition of a sales charge not to exceed 8½% of the public offering price on all new sales of Applicant's shares to the public.

Applicant believes that this method of operation will be beneficial to its shareholders by increasing its sales and thus reducing the effect of the redemptions experienced by Applicant during the last two fiscal years. Applicant has represented, however, that Applicant's shares will continue to be sold at net asset value without a sales charge until such time as an order of the Commission disposing of its application is received.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof may sell any redeemable security issued by such company to any person except at the current public offering price described in the prospectus. Accordingly absent exemptive relief by the Commission, shareholders who purchased Applicant's shares prior to July 11, 1979, without imposition of a sales charge would be required to pay a sales charge on future purchases of Applicant's shares upon implementation of Applicant's new distribution arrangements.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any

provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Aplicant states that issuance of the requested order permitting shareholders of record on July 11, 1979, to continue to purchase Applicant's shares without the payment of a sales charge would recognize that such shareholders, in purchasing Applicant's shares, may have relied upon the continued availability of additional shares at "no load". Applicant further represents that the absence of a sales charge on future purchases of Applicant's shares by shareholders of Applicant as of a specific date is related to the fact that less sales effort is required with respect to purchases made by persons already owning shares of Applicant than is required with regard to purchases by persons who are not already shareholders of Applicant. Applicant also states that the requested exemption will provide a benefit to Applicant's existing shareholders without having an adverse effect on other members of the investing public who will be required to pay a sales load on purchases of Applicant's shares whether or not the relief requested is granted. In addition, Applicant undertakes to accept purchase orders for Applicant's shares only upon written assurance from investors that the shares purchased without payment of a sales charge are being purchased solely for investment purposes and not for distribution and to disclose in all of its future prospectuses the fact that certain shareholders of Applicant are permitted to purchase shares at no sales charge. Applicant therefore believes that issuance of the requested order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than August 13, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–22815 Filed 7–23–79; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINSTRATION

[License No. 09/09–0211]

Florists Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Florists Capital Corporation (FCC), 10524 West Pico Boulevard, Los Angeles, California 90064, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1979)), for approval of a conflict of interest transaction.

Mr. Robert Barbosa and Ms. Brenda J. Hall, employees of FCC's parent (C.M. Conroy Company, Inc.) and the parent's subsidiary (Conroy's Inc.), are defined as Associates of FCC under § 107.3 of the Small Business Administration Rules and Regulations.

FCC proposes to provide $100,000 financing to Mr. Barbosa and Ms. Hall for the development of a Conroy's franchise. Because of Mr. Barbosa's and Ms. Hall's employment with C.M. Conroy, Inc., and Conroy's Inc., the proposed financing falls within the purview of § 107.1004(b)(1) of the SBA's Regulations and requires prior written approval from SBA.

Notice is further given that any person may, on or before August 8, 1979, submit to SBA written comments on the proposed transaction. Any such comments should be addressed to: Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, Washington, DC 20416.

A copy of this Notice shall be published in newspapers of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 17, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79–22849 Filed 7–23–79; 8:45 am]

BILLING CODE 8025–01–M

[License No. 04/04–0168]

Gulf Coast Capital Corp.; Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1979)), under the name of Gulf Coast Capital Corporation, 70 North Baylen Street, Pensacola, Florida 32501, for a license to operate in the State of Florida as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and major stockholder are as follows.

Oscar M. Tharp, President, General Manager, Director; 928 Fairway Drive, Warrington, FL 32507.

William G. Champlin, Vice President, Director; 615 Bayshore Drive, Warrington, FL 32507.

Schuyln J. Reed, Secretary, Treasurer, Director; 515 S. Second St., Warrington, FL 32507.

E. W. Hopkins, Jr., Director; 4875 Manolete, Pensacola, FL 32540.

Mutual Federal Savings * and Loan Association, 100 percent.

The applicant will begin operations with a capitalization of $500,000 which will be a source of long-term loans and venture Capital for diversified small business concerns. In addition to financial assistance, the applicant will provide consulting services to its clients.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, including adequate

* Mutual Federal Savings and Loan Association is a chartered mutual Corporation under Federal Law and has no beneficial holders of ten or more percent of its voting securities.

profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may on or before August 9, 1979, submit written comments on the proposed company to the Deputy Associate Administrator for Finance and Investment, 1441 L Street, NW, Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Pensacola, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: July 17, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-22850 Filed 7-23-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meetings of the Regional Work Groups (RWGs), Joint Committee for Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD). These meetings will be held on August 13, 1979.

The purpose of the meetings is to: discusss Host Country Contracts, discuss the development of a Professional Resources Pool (PRP); discuss the recommendations for future assistance and needed actions on Title XII programs; and discuss planning for other proposed country visits.

The Africa RWG will meet on August 13, 1979, and will convene at 9:30 a.m. in Room 2941 New State Department Bldg. (Mr. William Johnson) A.I.D. Federal Designee for this meeting, can be contacted at (202) 632-0196.)

The Asia RWG will meet on August 13, 1979, and will convene at 9:30 a.m. in Room 216, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia. (Mr. Calvin Martin, A.I.D. Federal Designee for this meeting can be contacted at (703) 235-8870.)

The Near East RWG and the Latin America RWG will not meet the month of August.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Frank H. Madden is designated A.I.D. Advisory Committee Representative for JCAD. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-9085.

Dated: July 13, 1979.

Frank H. Madden,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 79-22722 Filed 7-23-79; 8:45 am]

BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-sixth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on August 14 and 15, 1979.

The purpose of the meeting is to review progress in planning the Collaborative Research Support Programs (CRSPs) for Bean/Cow Pea, for Integrated Crop Protection, for Peanuts, and for Soil Management, to review a redraft of the JRC Guidelines, and to discuss procedural questions related to the planning and implementation of the CRSPs.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on August 14 and 15, 1979. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia, 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: July 13, 1979.

Erven J. Long,

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 79-22721 Filed 7-23-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order 180]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: Authority is delegated to certain Internal Revenue Service officials to request financial records of a customer from a financial institution pursuant to a formal written request under the Right to Financial Privacy Act of 1978.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: William E. Mulroy, I:IS, 1111 Constitution Avenue NW., Room 3039, Washington, D.C. 20224, (202) 566-4564 (Not Toll Free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

William E. Mulroy,

Director, Internal Security Division.

1. The authority granted to the Commissioner by the regulations (44 Federal Register 16908 (1979); 31 CFR Part 14—Right to Financial Privacy Act) relating to the request of financial records of a customer from a financial institution pursuant to a formal written request under Section 1108 of the Right to Financial Privacy Act of 1978 (92 Stat. 3697 *et seq.*, 12 U.S.C. 3401 *et seq.*), is hereby delegated to the following officials:

a. Assistant Commissioner (Inspection)

b. Director, Internal Security Division

c. Chief, Investigations Branch

d. Regional Inspectors

e. Assistant Regional Inspectors, Internal Security

2. The authority delegated to the officials designated in paragraph 1 (above) shall include all of the responsibilities to perform the tasks enumerated in the Act, including: issuing notice to the customer as required in Sections 1104(a), 1105(2), 1106 (b and c), 1107(2), 1108(4), and 1112(b); applying to the appropriate United States Attorney who may petition in the United States district court for delay of notice to the customer pursuant to Section 1109; issuing post-notice to the customer that there has been a court-ordered delay as required in Section 1109(b)(3) and Section 1109(c); issuing notice to the customer that no legal proceeding is contemplated as required in Section 1110(d)(2); issuing notice to the customer that customer record information has been transferred to another agency as required in Section 1112(b); certifying in writing to a financial institution in accordance with Section 1103(b) that all applicable provisions of this Act have been complied with when such certification is required; transferring customer record information in accordance with Section 1112(a) to another Federal department or agency; certifying that delay in obtaining access to customer financial records would create an imminent danger as required by the special procedures provision in Section 1114(b); and requesting account information as required in Section 1113(g).

3. The authority delegated herein may not be redelegated.

4. Should a financial institution question the authority of the official to issue a formal written request for financial records, a copy of this Delegation Order should be provided to that financial institution.

Jerome Kurtz,

Commissioner.

[FR Doc. 79-22772 Filed 7-23-79; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Order No. 101-3]

Delegation of Procurement Authority to Office of Administrative Programs and Treasury Bureaus

Dated: July 16, 1979.

Pursuant to the authority vested in me as Assistant Secretary (Administration) by Treasury Department Order No. 208, Revision 4, it is hereby ordered as follows:

1. The authority to prescribe and publish Treasury Procurement Regulations is hereby delegated to the Director, Office of Administrative Programs, Office of the Secretary, without the power of further redelegation.

2. (a) The following officials of the Department of the Treasury are hereby delegated the authority to procure property and services consistent with Title III of the Federal Property and Administrative Services Act of 1949 (Act), as amended (41 U.S.C. 251-260), except as precluded by Section 307 (41 U.S.C. 257) of the Act: Director, Office of Administrative Programs, Office of the Secretary; Director, Bureau of Alcohol, Tobacco, and Firearms; Comptroller of the Currency; Commissioner of Customs; Director, Bureau of Engraving and Printing; Director, Federal Law Enforcement Training Center; Commissioner, Bureau of Government Financial Operations; Commissioner of Internal Revenue; Director of the Mint; Commissioner of the Public Debt; National Director, U.S. Savings Bonds Division; Director, U.S. Secret Service.

(b) Each of the officials named in (a) is deemed "chief officer responsible for procurement" within the meaning of 41 U.S.C. 257(b).

3. The authority delegated includes but is not limited to taking the following actions:

(a) To enter into and take all necessary actions with respect to purchases, contracts, leases, and other contractual procurement transactions;

To make determinations and decisions with respect to procurement matters, except those determinations and decisions required by law or regulation to be made by other authority; and

(c) To designate persons qualified in procurement matters as Contracting Officers and representatives thereof, in accordance with requirements and procedures established in § 1.404 of the "Treasury Procurement Regulations."

4. The authority delegated herein shall be exercised in accordance with the applicable limitations and requirements of the Act; the Federal Procurement Regulations, 41 CFR Chap. 1; the applicable portions of the Federal Property Management Regulations, 41 CFR Chap. 101; as well as regulations issued by the Department of the Treasury which implement and supplement the Federal Procurement Regulations and the Federal Property Management Regulations including but not limited to 41 CFR Chap. 10 and Treasury Directives Manual Chapter 70-06, "Treasury Procurement Regulations."

5. To the extent permitted by the Act and this delegation, the authority herein delegated to the above-named officials may be redelegated by them by letter or bureau order to any subordinate officer or employee who has been duly designated to act as a Contracting Officer for the United States.

This Order supersedes Department of the Treasury Order 101-3, dated January 16, 1979.

W. J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 79-22743 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-25-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 111]

Assignment of Hearings

July 18, 1979

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 103926 (Sub-84F), W. T. MAYFIELD SONS TRUCKING CO., transferred to Modified Procedure.

MC 14252 (Sub-37F), Commercial Lovelace Motor Freight, Inc., now assigned for hearing on September 11, 1979 (9 days), at Louisville, KY., and will be held at the Stouffer's Louisville Inn, 120 West Broadway.

MC 28692, PETITION OF PITTSBURGH AND LAKE ERIE RAILROAD COMPANY TO DISCONTINUE TRAINS NOS. 261 BETWEEN PITTSBURGH, PENNSYLVANIA AND COLLEGE, PENNSYLVANIA, now assigned for hearing on August 13, 1979, at Pittsburgh, PA and August 15, 1979 at Beaver, PA is postponed indefinitely.

MC 121777 (Sub-2F), Packard Truck Lines, Inc., now assigned for hearing on September 24, 1979 (3 days), at Baton Rouge, LA, in a hearing room to be later designated.

MC 112713 (Sub-216F), Yellow Freight System, Inc., now assigned for hearing on September 25, 1979 at Dallas, TX, will be held at the Sheraton Inn, Mockingbird West, 1893 West Mockingbird, Dallas, TX.

MC 138882 (Sub-221F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on September 24, 1979 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 110420 (Sub-796F), Quality Carriers, Inc., now assigned for hearing on September 25, 1979 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 145583 (Sub-1F), Xpress Truck Lines, Inc., now assigned for hearing on September 26, 1979 (2 days), at Philadelphia, PA, in a hearing room to be later designated.

MC-C-10331, Pennsylvania Public Utility Commission V. Mushroom Transportation Co., Inc., now assigned for hearing on September 27, 1979 (2 days), at Philadelphia, PA, in a hearing room to be later designated.

AB-7 (Sub-78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company Debtor, Abandonement near Fairfield and Agawam, in Teton County, Mt., now assigned for hearing on August 13, 1979 at Chouteau, Mt., and will be held in the Court Room, Teton County Courthouse.

MC 145955F, Central Truck Service, Inc., now assigned for hearing on July 18, 1979 at Omaha, NE, is canceled and application dismissed.

MC 33641 (Sub-140F), IML Freight, Inc., now assigned for hearing on August 28, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-22775 Filed 7-23-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

July 19, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before August 8, 1979. FSA No. 43718, Southwestern Freight Bureau, Agent's No. B-13, rates on triethylene glycol, in tank carloads, from stations in Louisiana and Texas, to Eastman, S.C. Rates are published in Supp. 20 to its Tariff ICC SWFB 4615, effective August 5, 1979. Grounds for relief—rate relationship.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-22774 Filed 7-23-79; 8:45 am]

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[Volume No. 23]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Petitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

July 5, 1979.

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice. The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether Petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 117503 (Sub-9(M1F) (notice of filing of petition to modify certificate), filed May 9, 1979. Petitioner: HATFIELD TRUCKING SERVICE, INC., 1625 North C Street, Sacramento, CA 95814. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Petitioner holds a motor *common carrier* certificate in MC 117503 Sub 9 issued September 8, 1977, to transport in interstate or foreign commerce, over irregular routes, *General commodities* (except commodities in bulk, class A explosives, household goods as defined by the Commission, and those of unusual value), Between the Seattle-Tacoma International Airport, at or near Seattle, WA, the Portland International Airport, at or near Portland, OR, and the Sacramento Metropolitan Airport, at or near Sacramento, CA, on the one hand, and, on the other, the San Francisco International Airport, at or near San Francisco, CA, the Los Angeles International Airport, at or near Los Angeles, CA, and the Sacramento Metropolitan Airport, at or near Sacramento, CA. Restriction: The service authorized herein is subject to the following conditions:

Said operations are restricted to the transportation of traffic having a prior or subsequent movement by air.

Said operations are restricted against the transportation of traffic moving between the Sacramento Metropolitan Airport and San Francisco International Airport.

The authority granted herein is restricted to the extent it authorizes the transportation of Class B explosives, which shall be limited in point of time to a period expiring September 8, 1982. This certificate may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein. By the instant petition, petitioner seeks to modify the authority as follows: a change in the

status of the authority from radial to non-radial, except for a restriction against service between the Seattle-Tacoma International Airport and the Portland International Airport.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before August 23, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 128616 (Sub-24F) (republication), filed July 31, 1978, published in the Federal Register issue of October 12, 1978, and republished this issue. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111. Representative: Sally G. Galway (same address as applicant). A Decision of the Commission, Review Board No. 1, decided June 27, 1979, and served July 2, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *commercial papers, documents, and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Omaha, NE, on the one hand, and, on the other, points in and west of Taylor, Adams, Cass, Audubon, Carroll, Sac, Buena Vista, Clay, and Dickinson Counties, IA (except points in Woodbury and Monana Counties), under continuing contracts with banks and banking institutions, including bank-owned computer companies, will be consistent with the public interest and the national transportation policy. The purpose of this republication is to modify the territorial description.

MC 134286 (Sub-54F) (republication), filed April 5, 1978, published in the Federal Register issues of July 13, 1978 and June 18, 1979, and republished this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. A Decision of the Commission, Review Board No. 3, decided March 16, 1979, and served April 18, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals, acids, solvents, and edible oils* (except in bulk), (A) from (1) Chicago, IL, (2) the facilities of Hawkins Chemical Co., and Exxon Chemical Corp., at or near Minneapolis, MN, (3) the facilities of F.M.C. Corp., at or near Lawrence, KS, and Green River, WY, (4) the facilities of Olin Chemical Co., at or near Joliet, IL, (5) the facilities of Sanford Chemical Co., at or near Elk Grove Village, IL, (6) the facilities of Velsicol Chemical Co., at or near St. Louis, MI, (7) the facilities of James Varley & Son Co., at or near St. Louis, MO, (8) the facilities of BASF Wyandotte Chemical Corp., and Penwalt Corp., at or near Wyandotte, MI, (9) the facilities of Ozark-Mahoning Co., at or near Tulsa, OK, (10) the facilities of Floridin Company at or near Berkeley Springs, WV, and Quincy, FL, (11) the facilities of Ash Grove Chemical Co., at or near Springfield, MO, (12) the facilities of Lien Chemical Co., at or near Rapid City, SD, (13) the facilities of Burris Chemical Co., at or near Charleston, SC, and East Point, GA, (14) the facilities of Barnebey Cheney, at or near Columbus, OH, (15) the facilities of Cities Service Co., at or near Copperhill, TN, (16) the facilities of Ft. Recovery Industries, at or near Ft. Recovery, OH, (17) the facilities of Great Lakes Chemical Corp., at or near West Lafayette, IN, (18) the facilities of Marathon Morco Co., at or near Dickinson, TX, (20) the facilities of Mazer Chemical, at or near Gurnee, IL, (21) the facilities of Quality Chemical Co., at or near Baltimore, MD, (22) the facilities of Stauffer Chemical Co., at or near Green River, WY, (23) the facilities of Westvaco Chemical Division, at or near Covington, VA, (24) the facilities of Lowe's, Inc., at or near Oran, MO, (25) the facilities of P.P.G. Industries, at or near Barberton, OH, and Natrium, WV, (26) the facilities of Diamond Shamrock Chemical Co., at or near Painesville, OH, (27) the facilities of Allied Chemical Co., at or near Wilmington and North Claymont, DE, Richmond, VA, and Syracuse, NY, (28) the facilities of E. I. DuPont, at or near Memphis, TN, (29) the facilities of Dow Chemical Co., at or near Midland and Ludington, MI, (30) the facilities of North Star Chemical, at or near Pine Bend, MN, (31) the facilities of Penwalt Corp., at or near Delaware, OH, (32) the facilities of Standard Milling, at or near Meta, MO, to points in IA and NE, and (33) the facilities of Keyes Fiber Co., at or near Hammond, IN, and (B) from the facilities of Warren-Douglas Chemical Co., at or near Omaha, NE, and Sioux City, IA, to Phoenix, AZ, and points in NM, OK, and TX, restricted in (A) and (B), to the transportation of traffic originating at the named origins and destined to the indicated destinations, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to make corrections in the territorial description.

Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commissioner considers, among other things, whether the petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business

identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 119968 (Sub-6), (2nd republication), filed October 2, 1972, previously noticed in the Federal Register issues of November 9, 1972 and November 23, 1972, and republished this issue. Applicant: A. J. WEIGAND, INC., 1046 North Tuscarawas Ave., Dover, OH 44622. Representative: Terrence D. Jones, 2033 K St., NW., Suite 300, Washington, D.C. 20036. In accordance with the Decision of the Commission, decided June 22, 1979, and served June 25, 1979, this proceeding is reopened for further consideration, subject to the approval of the United States Court of Appeals for the District of Columbia Circuit in *Chemical Leaman Tank Lines, Inc., et al.* v. *Interstate Commerce Commission, et al.*, No. 78–2055. The authority sought by A. J. Weigand, Inc. in Commission Docket MC–119968 Sub 6 is republished below. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from Dover, OH, to points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the southern peninsula of MI; and (2) *such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the southern peninsula of MI, to Dover, OH.

Note.—(A) Applicant states that it intends to tack at Dover, OH, the authority sought in (1) and (2) above; (B) Applicant also states that the request authority duplicates that authority it holds in certificate No. MC–119968, authorizing transportation of: (1) *such commodities* as are manufactured and sold by chemical manufacturing plants (except petroleum products, in bulk, in tank vehicles), between the same above-named destinations and origins; and (2) *machinery, equipment, materials, and supplies* used by chemical manufacturing plants, from points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the lower peninsula of MI, to Dover, OH; and (C) This republication expressly notes that applicant intends to tack the authority it seeks with its existing authorities. Any interested persons who did not participate in the earlier proceedings involving this application may file protests within 30 days of this Federal Register notice. (Hearing site: Washington, DC.)

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before August 23, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 30605 (Deviation No. 30), THE SANTE FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, P.O. Box 56, Wichita, KS 67201, Filed June 25, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Denver, CO, over U.S. Hwy 287 to Amarillo, TX, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Denver, CO, over U.S. Hwy 85 to junction relocated U.S. Hwy 85, near Crow, CO, then over relocated U.S. Hwy 85 to junction U.S. Hwy 85, South of Greenhorn, CO, then over U.S. Hwy 85 via Rowe and Glorieta, NM, to Albuquerque, NM, then over U.S. Hwy 66 (Interstate Hwy 40) to Amarillo, TX, and return over the same route.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before August 23, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1515 (Deviation No. 743), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed June 29, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers* in the same vehicle with passengers over a deviation route as follows: From Plattsburgh, NY over NY Hwy 3 to Saranac Lake NY and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertintent service route as follows: From Mooers, NY over NY Hwy 22 via Plattsburg, NY to Keeseville, NY, then over NY Hwy 9N to Jay, NY, then over NY Hwy 86 to Saranac Lake, NY and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 58927, filed June 11, 1979. Applicant: M & L TRUCKING COMPANY, INC., 4909 Tidewater Avenue, Oakland, CA 94601. Representative: Eldon M. Johnson, The Hartford Building, 650 California Street, Suite 2808, San Francisco, CA 94108. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* between all points and places in the San Francisco Territory (as described in Note 1 hereto) and points within twenty-five (25) miles

thereof, except that—pursuant to the within-requested authority—no shipments of the following shall be transported: 1. Used household goods and personal effects not packed in salemen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard or straw matting); 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; 4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks; 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit; 7. Cement; 8. Logs; 9. Commodities of unusual or extraordinary value; and 10. Fresh fruits and vegetables. In performing the within-required service, use may be made of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. (Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.)

Note 1.—*The San Francisco Territory.* Includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said county line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hilldale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (State Highway 13); northerly along Warren Boulevard to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate, and foreign commerce authority sought.

Irregular-Route Motor Common Carriers of Property Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107002 (Sub-E171) (correction), filed May 13, 1974, published in the **Federal Register** issue of May 30, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Naval stores and naval store products*, in bulk, in tank vehicles, from Mobile, AL, to points in ME. (Gateway eliminated: Picayune, MS). Purpose of republication—correct the commodity description.

MC 107002 (Sub-E209) (correction), filed May 20, 1974, published **Federal Register** issue of September 4, 1975. applicant: MILLER TRANSPORTERS, INC., P.O. 1123, Jackson, MS 39205. representative: John J. Barth (same as above). *Antol, cymene, esterified tall oil, liquid soap, nalene, paracymene, paramethane, hydro peraxide, penene, pine oil, pine pitch, pine tar, rosin, rosin liquor, rosin sizing, rosin solution, synthetic gums and resins, tall oil, tall oil fatty acid, tall oil pitch terpineal, turentine, and zinc rersinates*, in bulk, in tank vehicles, from the facilities of Inneeo Chemicals, Inc., at Ielagia, FL, to points in NJ, NY and PA. (Gateway eliminated—Bay Minette, AL). Purpose or republication—clarify sub number.

MC 107002 (Sub-E210) (correction), filed May 20, 1974, published **Federal Register** issue of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Liquid caustic soda*, in bulk, in tank vehicles, from Le Mayne, AL, to points in OH. (Gateway eliminated: Memphis, TN). Purpose of republication—clarify sub-number.

MC 107002 (Sub-E211) (correction), filed May 20, 1974, published in the **Federal Register** of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Liquid sulphuric acid*, in bulk, in tank vehicles, from Le Moyne, AL, to (1)

points in KY, MO, and OK (points in Jackson County, MS*); (2) points in TX (points in Jackson County, MS, or Hattiesburg, MS*); (3) points in OH (points in Jackson County, MS, and McIntosh, AL*); and (4) Elizabethton, Kingsport, Johnson City, Bristol, Morristown, Greenville, and Newport, TN (points in Jackson County, MS, and Mobile, AL*). (Gateways eliminated: indicated by asterisks.) Purpose of correction—clarify sub number.

MC 107002 (Sub-E236) (correction), filed May 20, 1974, published in the **Federal Register** of August 26, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Sulphate liquor skimmings*, in bulk, in tank vehicles, from Cantonment, FL, to points in KY (Bay Minette and Fox, AL*); KS (Bay Minette, AL, and Collierville, TN*); IL; IN; MO (Bay Minette, AL, and Memphis, TN*); WV (Bay Minette, AL, and facilities of Monsanto Chemical Company at Anniston, AL*); NC, OH (Bay Minette and McIntosh, AL*); MI, MN, WI (Bay Minette, AL, and Cedartown, GA*); AR, OK (Bay Minette, AL, and Hattiesburg, MS*); SC (Bay Minette and River Falls, AL*); TX (Bay Minette, AL, and Jackson County, MS*); and IA (Bay Minette, AL, and Arlington, TN*). (Gateway eliminated: indicated by asterisks.) Purpose of correction—clarify sub number.

MC 107012 (Sub-E666), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in AL, to points in CA, CO, ID, KS, MN, MT, NV, ND, OR, SD, UT, WA and WY. 2. From points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega and Tallapoosa Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw and Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago, and Wood Counties, WI. 3. From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline, and Worth Counties, MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, and Union Counties, NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major,

Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, OK; Armstong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 4. From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marin, Pickens, Tuscaloosa, Walker and Winston Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, AR; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in OK; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI. 5. From points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL, to points, in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; points in IA; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in OK; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas and Washburn Counties, WI. 6. From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lowndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN; points in IA; points in MI; points in MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valenica, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM; Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK; points in WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E669), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in AZ, to points in CT, DE, DC, GA, IL, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA and WV. 2. From points in Cochise, Gila, Graham and Greenlee Counties, AZ, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; to points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctawa, Clay, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menomiee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Sahwano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 3. From points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulker, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in FL; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlesvoix, Cheboygan, Clare, Crawford, Emmet, Galdwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Brancha, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawambe, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto and Oneida Counties, WI. 4. From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; to points in FL; to points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 5. From points in Yuma County, AZ to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaskia, Saline and White Counties, AR; points in FL; points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood

Counties, WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E670), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in AR, to points in CT, DE, DC, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA and WV.

2. From points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier and Yell Counties, AR, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; to points in GA Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID; to points in IL; to points in IN; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in ND; points in OR; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in WA; points in WI. 3. From points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita and Union Counties, AR, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; points in ID; points in IL; points in IN; points in IA; Atchinson, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Namaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchana, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in ND; points in OR; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; points in SD; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points, in WA; points in WI; points in WY. 4. From points in Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR, to points in AL; Glenn, Humboldt, Lake, Mendicino, Tehama

and Trinity Counties, CA; points in FL; points in GA; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Coos, Curry, Douglas, Jackson and Josephine Counties, OR; points in SC; points in TN; Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Watcom Counties, WA; Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 5. From points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR, to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL; Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; points in CA; points in CO; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilston, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in ID; points in IL; points in IN; points in IA; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in NV; points in ND; points in OR; points in SC; points in SD; Anderson, Blount, Campbell, Carter, Clairborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davisdon, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in UT; points in WA; points in WI; points in WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E671), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801, Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:* 1. From points in AL, to points in CA, CO, ID, KS, MN, MT NV, ND, OR, SD, UT, WA and WY. 2. From points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega and Tallapoosa Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw and Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; Points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Noland, Palo Pinto, Parker, Regan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell,

Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 3. From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jo Daviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchinson, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 4. From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro, Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; Points on OK; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI. 5. From points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison,

Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; points in IA; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in OK; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas and Washburn Counties, WI. 6. From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jo Daviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN; points in IA; points in MI; points in MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM; Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnson, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK; points in WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E67Z), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutinal fixtures and Store and Office Equipment, Uncrated:* 1. From points in AZ, to points in CT, DE, DC, GA, IL, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA and WV. 2. From points in Cochise, Gila, Graham and Greenlee Counties, AZ, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; to points in MI; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 3. From points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in FL; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac, Counties, MI; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancok, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishoming, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin,

Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Mulwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto and Oneida Counties, WI. 4. From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; to points in FL; to points in MI; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 5. From points in Yuma County, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in FL; points in MI; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancok, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yolobusha Counties, MS; Bollinger, Bulter, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. (Greene County, AR.)

MC 107012 (Sub-E673), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:* 1. From points in AR, to points in CT, DE, DC, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA and WV. 2. From points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier and Yell Counties, AR, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceloa, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Walkulla Counties, FL; to points in GA; Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID; to points in IL; to points in IN; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in ND; points in OR; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale,

Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in WA; points in WI. 3. From points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita and Union Counties, AR, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; points in ID; points in IL; points in IN; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in ND; points in OR; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; points in SD; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesme, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points in WA; points in WI; points in WY. 4. From points in Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR, to points in AL; Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; points in FL; points in GA; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburg, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; Covington, Forrest, George, Greene, Hancok, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Coos, Curry, Douglas, Jackson and Josephine Counties, OR; points in SC; points in TN; Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA; Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 5. From points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR, to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL; Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; points in CA; points in CO; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, and Wakulla Counties, FL; points in GA; points in ID; points in IL; points in IN; points in IA; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in NV; points in ND; points in

OR; points in SC; points in SD; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphrey, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in UT; points in WA; points in WI; points in WY. (Gateway eliminated: Greene County, AR.)

MC 107403 (Sub-E404) (correction), filed May 29, 1974, published in the **Federal Register** August 21, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: George B. Black, Jr. (same as above). *Petroleum and petroleum products,* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 (except petroleum chemicals as described in Appendix XV to the *Descriptions* case), from points in OH on and north of a line beginning at the OH–WV State line extending along U.S. Hwy 30 to junction U.S. Hwy 30S, then along U.S. Hwy 30S to the OH–IN State line, to points in MD. (Gateways eliminated: Cleveland, OH and Butler, PA). Purpose of republication—reflect correct OH territory.

MC 107403 (Sub-E406) (correction), filed May 29, 1974, published in the **Federal Register** August 21, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: George B. Black, Jr. (same as above). *Liquid petroleum products,* in bulk, in tank vehicles (except gasoline, fuel oil, benzene, and kerosene), from points in OH on and north of a line beginning at the OH–WV State line extending along U.S. Hwy 30 to junction U.S. Hwy 30S, then along U.S. Hwy 30S to the OH–IN State line, to points in MA, VT, ME, and NH. (Gateways eliminated: Cleveland, OH, Emlenton, PA, Cartaret, NJ, and Newark, NY). Purpose of republication—reflect correct OH territory.

MC 107403 (Sub-E696), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles from points in CT, MA, and RI to points in CA, WA, and OR. (Gateway eliminated: St. Paul, MO.)

MC 107403 (Sub-E697), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles, from points in CT, MA, and RI to points in AZ, ID and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E698), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr.(same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles, from points in CT, MA and RI to points in MT, UT and NM. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E699), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles, from points in CT, MA and RI to points in CO, WV, MT, UT and NM. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E700), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston,* 63 M.C.C. 677 (except gasoline, fuel oil, kerosene and benzene), in bulk, in tank vehicles, from points in NJ to points in CA, WA and OR. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E701), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston,* 63 M.C.C. 677(except gasoline, fuel oil, kerosene and benzene), in bulk, in tank vehicles, from points in NJ to points in CA, WA and OR to points in AZ, ID and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E702), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except milk, petroleum, petroleum products, coal tar, and coal tar products), in bulk, in tank vehicles, from points in NJ to points in MT, UT, and NM. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E703), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as defined in *The Maxwell Co., Extension-Addyston,* 63 M.C.C. 677 (except gasoline, fuel oil, kerosene and benzene), in bulk, in tank vehicles, from points in NJ to points in CA, WA and OR to points in CO and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E704), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne. PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* in bulk, in tank vehicles, from points in NY to points in AZ, ID, and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E705), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except gasoline, fuel oil, asphalt, kerosene and benzene), in bulk, in tank vehicles, from points in NY to points in CO and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E706), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* in bulk, in tank vehicles, from points in NY to points in CA, WA and OR. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E707), filed March 22, 1979. Applicant: MATLACK, INC., 10W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* in bulk, in tank vehicles, from points in NY to points in MT, NM, and UT. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E708), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar and coal tar products), in bulk, in tank vehicles, from points in DE to points in CA, OR and WA. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E709), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar, and coal tar products), in bulk, in tank vehicles, from points in DE to points in AZ, ID, and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E710), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar and coal tar products), in bulk, in tank vehicles, from points in DE to points in CO, and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E711), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar and coal tar products), in bulk, in tank vehicles, from points in DE to points in MT, NM and UT. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E712), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals,* in bulk, in tank vehicles, from points in MO to points in CA, OR and WA. (Gateway eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E713), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals,* in bulk, in tank vehicles, from points in MO to points in NV, ID, and UT. (Gateways eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E714), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals,* in bulk, in tank vehicle, from points in MD to points in MT, NM, and CO. (Gateways eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E716), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as defined in *The Maxwell Extension, Addyston,* 63 M.C.C. 677, in bulk, in tank vehicles, from points in MD to points in AZ. (Gateways eliminated: Natrium, WV, and St. Louis, MO.)

MC 107403 (Sub-E717), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals,* in bulk, in tank vehicles, from points in PA to points in CA, WA, and OR. (Gateways eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E718), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals,* in bulk, in tank vehicles, from points in PA to points in NV, ID, and UT. (Gateway eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 119777 (Sub-E241), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel articles,* as described in Appendix V to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209, (1) From points in IL and IN on and south of U.S. Hwy. 50 and points in KY to points in ME, NH and VT, and (2) from points in Boyd Co., KY to points in AL, GA, KS, LA, that part of MI on and north of MI Hwy. 21, MN, MS, NE, TX and WI. (Gateway eliminated: Cabell Co., WV.)

MC 119777 (Sub-E242), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). (1) *Coated pipe, alloy pipe* and *iron and steel pipe,* except commodities which because of size or weight require the use of special equipment, from St. Louis, MO to New York, NY and points in KY, PA, WV and points in OH on and east of I–75 and points west of I–75 in Hamilton, Butler, Warren and Montgomery Counties, OH. (2) *Iron and steel pipe,* except commodities which because of size or weight require the use of special equipment, from St. Louis, MO to points in ME, NH and VT. (Gateways eliminated: East St. Louis, IL and points in KY in (1); and east St. Louis, IL, Ashland, KY, and Huntington, WV, in (2).)

MC 115826 (Sub-E72), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Germina, Denver, CO 80217. Representative: William H. Shawn, Suite 501, 1730 M St. NW., Washington, DC 20036. *Fresh, frozen and cured meats, and frozen meat products,* from points in CA on, north and west of a line beginning at Monterey extending along CA Hwy 69 to Salinas, then along U.S. Hwy 101 to junction CA Hwy 152, then along CA Hwy 152 to junction CA Hwy 59, then along CA Hwy 59 to Merced, then along CA Hwy 99 to junction CA Hwy 36, then along CA Hwy 36 to junction I Hwy 5, then along I Hwy 5 to junction CA Hwy 299, then along CA Hwy 299 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the OR–CA State line, to points in CO on, east and north of a line beginning at the CO–WY State line extending along I Hwy 25 to junction Co Hwy 14, then along CO Hwy 14 to Fort Collins, then along U.S. Hwy 287 to junction Co Hwy 119, then along CO Hwy 119 to Boulder, then along CO Hwy 93 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 85, then along U.S. Hwy 85 to Colorado Springs, then along U.S. Hwy 24 to the CO–KS State line. (Gateway eliminated: Roberts, ID, and Boulder, CO, and points within 50 miles of Boulder.)

MC 115826 (Sub-E73), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Germina, Denver, CO 80217. Representative: William H. Shawn, Suite 501, 1730 M St. NW., Washington, DC 20036. *Frozen, fresh and cured meats and frozen meat products,* from points in CO on, east and south of a line beginning at the CO–NM State line extending along U.S. Hwy 85 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 119, then along CO Hwy 119 to junction I Hwy 25, then along I Hwy 25 to junction CO Hwy 66, then along CO Hwy 66 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction CO Hwy 392, then along CO Hwy 392 to junction CO Hwy 37, then along CO Hwy 37 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CO–NE State line, to points in OR on, west and south of a line beginning at the CA–Or State line extending along OR Hwy 39 to junction OR Hwy 140, then along OR Hwy 140 to junction U.S. Hwy 97, then along U.S. Hwy 97 to junction OR Hwy 58, then along OR Hwy 58 to junction I Hwy 5, then along I Hwy 5 to Salem, then along OR Hwy 22

to junction OR Hwy 18, then along OR Hwy 18 to the Lincoln County line, then along the Lincoln County line to the Pacific Ocean. (Gateway eliminated: Alturas, CA and Denver, CO, a point within 50 miles of Boulder.)

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC–115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before August 13, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the Federal Register, subject to its tariff publication effective date.

HG–13–79 (special certificate—used household goods), filed June 18, 1979. Applicant: CLASSIC CITY MOVING & STORAGE, 120 Oneta Street, Athens, GA 30601. Representative: T. James Brannon, President, Classic City Moving & Storage (address same as applicant). Authority sought: Between points in Banks, Barrow, Clarke, Dekalb, Elbert, Franklin, Greene, Gwinnett, Habersham, Hall, Hart, Jackson, Madison, Morgan, Oconee, Oglethorpe, Rockdale, Stephens, Walton, and Wilkes Counties, GA, serving Navy Supply Corps School, Athens, GA.

HG–14–1979 (special certificate—used household goods), filed June 25, 1979. Applicant: ALVA DEAN BANKS, d.b.a. BANKS MOVING & STORAGE, 975 West Jackson, P.O. Box 345, Marshall, MO 65340. Representative: Alva Dean Banks, 984 West Morgan, P.O. Box 345, Marshall, MO 65340. Authority sought: Between points in Johnson, Henry, Cass, St. Clair, Benton, Morgan, Maniteau, Cooper, Pettis, Carroll, Ray, Chariton, Howard, Boone, Lafayette, Saline, Bates, Randolph, Clay and Jackson Counties, MO, serving Whitman Air Force Base, Knob Noster, MO.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79–22778 Filed 7–23–79, 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 143
Tuesday, July 24, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

[M-236, Amdt. 4; July 19, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the July 19, 1979, meeting.

TIME AND DATE: 10 a.m., July 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

10. Docket 32665, California/Southwest-Western Mexico Route Proceeding (Part II)—Request for Instructions (Memo 8996, OGC)

17. Dockets 34623, 34890, 34975, 35055, 35065, and 35557; United's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority; Ozark's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Continental's application for Denver-Orlando/Sarasota/Fort Myers/West Palm Beach and Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Western's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miamia nonstop authority and motion to consolidate; National's application for Denver/Colorado Springs-Fort Lauderdale/Miami/Orlando/Tampa nonstop authority and motion to consolidate; Trans International's application (in part) for Chicago-Orlando/Tampa/Miami nonstop authority and motion to consolidate (the balance of this application is to be dealt with by separate order). (Memo No. 8974, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 10 was deleted in order that the Chairman may have additional time to consider this item. Item 17 was deleted because it requires additional staff work. Accordingly, the following Members have voted that Items 10 and 17 be deleted from the July 19, 1979 agenda and that no earlier announcement of these deletions was possible:

Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1473-79 Filed 7-20-79; 3:36 pm]

BILLING CODE 6320-01-M

2

[M-237, Amdt. 1; July 19, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the July 21, 1979, agenda.

TIME AND DATE: 1 p.m., July 21, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2. Docket 32665, California/Southwest-Western Mexico Route Proceeding (Part II)—Request for Instructions (Memo 8996, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 2 is being added to the July 21, 1979 meeting because the Chairman would like to discuss it since there will not be a regular Board Meeting until August 21, 1979. Accordingly, the following Members have voted that agency business requires the addition of Item 2 to the July 21, 1979 agenda and that no earlier announcement of this addition was possible:

Member, Richard J. O'Melia
Member, Elizabeth Bailey
Member, Gloria Schaffer

Note.—Please use the Florida Avenue entrance. The Connecticut Avenue entrance is closed on Saturday.

[S-1474-79 Filed 7-20-79; 3:36 pm]

BILLING CODE 6320-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1449-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, July 24, 1979.

CHANGE IN THE MEETING:

The following matters are added to the agenda for the open portion of the meeting:

(1) Proposed Memorandum of Understanding Between the Office of Federal Contract Compliance Programs and EEOC.

(2) Proposed Interim Regulations for Processing of certain Federal EEO cases by the Merit Systems Protection Board.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

IN FAVOR OF CHANGE: Eleanor Holmes Norton, Chair, Daniel E. Leach, Vice Chair, Ethel Bent Walsh, Commissioner, Armando M. Rodriguez, Commissioner, J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued July 19, 1979.

[S-1469-79 Filed 7-20-79; 11:05 am]

BILLING CODE 6570-06-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Thursday, July 19, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

CHANGES IN THE MEETING:

The Federal Communications Commission previously announced on July 12, 1979, Public Notice No. 19421, its intention to hold a Special open meeting on Thursday, July 19, 1979, commencing at 9:30 a.m.

The time has been changed. The open meeting will commence at 10:00 a.m.

The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

If additional information is required concerning this meeting it may be obtained from FCC Office of Public Affairs, telephone number (202) 632-7260.

Issued: July 19, 1979.

[S-1471-79 Filed 7-20-79; 3:36 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 12:30 a.m., Thursday, July 19, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Continuation of Closed Commission Meeting which followed the July 18th Oral Argument.

The Commission will hold a continuation of the July 18th closed meeting on Thursday, July 19, 1979 for the purpose of issuing instructions to the staff following oral argument in RKO General, Inc. (WNAC-TV, Channel 7), Boston, Mass. proceeding (Dockets 18759–61).

The continuation of this closed meeting will take place after the Special Closed Meeting, July 19, 1979, in Room 856, 1919 M Street, N.W., Washington, D.C.

The prompt and oprderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

If additional information is required concerning this meeting it may be obtained from FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: July 19, 1979.

[S–1472–79 Filed 7–20–79; 3:36 pm]

BILLING CODE 6712–01–M

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., July 26, 1979.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

FOR FURTHER INFORMATION CONTACT: Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED: Consideration of Travel Audit.

No. 254, July 19, 1979.

[S–1467–79 Filed 7–20–79; 11:05 am]

BILLING CODE 6720–01–M

7

[USITC SE–79–30]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, July 31, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 332–87 (Western Steel)—consideration of the report, if necessary.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161

[S–1468–79 Filed 7–20–79; 11:05 am]

BILLING CODE 7020–02–M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of July 16 (Changes) and Week of July 23 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Thursday, July 19, 4:45 p.m. (Additional Item)

1. Affirmation of Proposed New System of Records and Amendments of Routine Uses (Approximately 10 minutes—Public meeting).

Tuesday, July 24, 2:30 p.m.—(Cancellation)

Item 2. Briefing on Revision to the Operating Assumption Covering the Relative Ease of Fabricating Clandestine Fission Explosives (Approximately ½ hour—Closed—Item is Cancelled).

Friday, July 27, 9:30 a.m.

1. Affirmation Session (Approximately 10 minutes—Public meeting—Postponed from July 26).
   (a) Order in S–3.
   (b) ALAB–542 (Atlantic Research).
   (c) Anderson FOIA Appeal.
   (d) Upgrade Rule (Tentative).
   (e) Revision of 10 CFR 2.802 PRM (Tentative).
   (f) Order in Restart of TMI–1 (Tentative).
2. Budget Presentations (Approximately 3 hours—Public meeting—NMSS—as announced).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

July 19, 1979.

[S–1470–79 Filed 7–20–79; 3:36 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
July 24, 1979

Part II

Pension Benefit Guaranty Corporation

Revised Method of Filing; Notice of Intent to Terminate

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2604]

Revised Method of Filing Notice of Intent to Terminate; Proposed Rulemaking

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This is a proposed revision of the Notice of Intent to Terminate regulation. If adopted, it will prescribe a new method of filing with the Pension Benefit Guaranty Corporation ("PBGC") the statutory Notice of Intent to Terminate a pension plan covered under the plan termination insurance program of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). This amendment is necessary because the PBGC and the Internal Revenue Service ("IRS") have developed a joint form and a simplified procedure to follow when terminating a pension plan that is covered under Title IV of ERISA and for which a determination of qualification is requested from the IRS. This form is also to be used to notify the IRS of plan mergers, consolidations, or transfers of plan assets or liabilities to another plan. Notification on this form to the IRS will also satisfy the requirement to report the latter type of transactions to the PBGC. It is expected that this new procedure and the use of this form will simplify and lessen the filing obligations of defined benefit pension plans covered under Title IV of ERISA.

DATES: Comments must be received on or before September 24, 1979.

ADDRESSES: Send comments to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895.

SUPPLEMENTARY INFORMATION: Section 4041(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1341(a), requires the plan administrator of a terminating defined benefit pension plan covered under the plan termination insurance program of Title IV of ERISA, to file with the Pension Benefit Guaranty Corporation ("PBGC"), at least 10 days prior to the proposed date of termination, a notice that the plan is to be terminated.[1] A plan administrator of a terminating plan qualified under section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a) (the "Code"), who desires a determination of qualification regarding the plan must file certain information with the IRS. Section 4043(b)(8) of ERISA requires a plan administrator of a pension plan covered under Title IV of ERISA to notify PBGC within 30 days after he or she knows or has reason to know that his or her plan has merged, consolidated, or transferred its assets or liabilities under Section 208 of ERISA.[2] Section 6058(b) of the Code requires a plan administrator of a plan which is qualified under section 401(a) of the Code to notify the IRS at least 30 days prior to the merger, consolidation, or transfer of its assets or liabilities to another plan.

The overlapping nature of these statutory filing requirements, and thus their potential for causing certain pension plans to make duplicative filings with the PBGC and the IRS, has been a source of concern to the two agencies. Therefore, the two agencies have sought to develop a method to alleviate these duplicative filing requirements. The approach that has been developed by the PBGC and the IRS simplifies and lessens the current requirements by eliminating the necessity for a defined benefit plan covered by Title IV of ERISA to file information regarding a single event with both agencies. The details of this proposed new system (which is referred to as "one-stop service") are set forth below, and the opinions and suggestions of the public with regard to it are requested. All comments received will be carefully considered by the PBGC and IRS before finalizing this procedure. If this proposal is adopted, the IRS will issue a Revenue Procedure and the PBGC will amend its Notice of Intent to Terminate regulation.

One-Stop Service

The basic premise of one-stop service is that a defined benefit pension plan covered by title IV of ERISA that is faced with duplicative filing requirements[3] under sections 4041(a) and 4043(b)(8) of ERISA and sections 401(a) and 6058(b) of the Code should be able to satisfy all of its filing requirements by a single filing with one agency. The vehicle for accomplishing this is revised IRS/PBGC Form 5310 and IRS Form 6088. (The latter is not a new form, but Schedule A of the current Form 5310, set forth separately with minor editorial changes and assigned a new number. Revised Form 5310 is discussed more fully in the next section of this preamble.) Under this new procedure, the total amount of information required to be submitted to both agencies has been reduced through the eliminiation of duplicative requirements.

Under the proposed procedure, a terminating defined benefit pension plan that is covered by Title V of ERISA, other than a multiemployer plan,[4] is required to file Form 5310 with the PBGC at least 10 days prior to the proposed date of termination. If the plan also wishes to obtain a determination from the IRS on its tax qualification status upon termination, it should attach a duplicate of completed Form 5310, and the PBGC will send the duplicate to the IRS in order to allow it to make a tax qualification determination. Thus the plan need not make separate filings with both agencies.

There are, however, certain situations in which separate filings may still be necessary. If, for example, the plan has already filed its Form 5310 with the

[1] Section 4041(f) of ERISA provides that the amendment of a covered plan to make it an individual account plan shall be treated as a plan termination. Accordingly, the plan administrator must file with the PBGC a notice of intent to terminate the plan.

[2] This notice requirement may be modified by the PBGC when it issues its final regulation on Reporting and Notification Requirements for Reportable Events. When that regulation was published in proposed form for public comment (42 Fed. Reg. 59285 (November 16, 1977)), it contained a provision (proposed § 2617.11) waiving the 30-day notice requirement for plans with less than 100 participants and for plans making certain de minimis transfers of assets or liabilities pursuant to reciprocity or portability agreements. Thus, references in this regulation to the filing requirement under ERISA § 4043(b)(8) mean the current effective statutory filing requirement or any modified filing requirement subsequently promulgated by PBGC in its regulation on Reportable Events.

[3] Pension plans other than defined benefits plans covered under ERISA Title IV and profit-sharing and other types of deferred compensation plans are not similarly burdened with duplicative filing requirements, because under Title IV of ERISA and the Code, they need only file with IRS.

[4] While terminating multiemployer pension plans covered by Title IV of ERISA are required under Section 4041(a) to file a Notice of Intent to Terminate with the PBGC at least 10 days prior to the proposed date of termination, the only requirements prescribed by the PBGC for the Notice are that it be signed by the plan administrator and contain his or her address and telephone number. (See 42 Fed. Reg. 64752 (December 28, 1977).) Part 2604 of the PBGC's regulations does not apply to multiemployer plans. Thus, unless specifically noted otherwise, references in this preamble to "defined benefit pension plans covered under Title IV of ERISA" do not include multiemployer plans. Optional use by multiemployer plans of Form 5310 for a Notice of Intent to Terminate is discussed in the next two sections of this preamble.

PBGC and then decides that it wishes to obtain a determination from IRS on its tax qualification status, it should file another Form 5310 and a Form 6088 directly with the IRS. The Form 5310 should be marked "IRS only" in the Special Request box at the top of page 1. The other situation arises when a plan covered under Title IV wishes to obtain an advance determination of tax qualification from the IRS prior to deciding whether to terminate. In this case, the plan should file Forms 5310 and 6088 directly with IRS and indicate "IRS only" in the Special Request box on the Form 5310. If it is later decided that the plan will be terminated, another Form 5310 will have to be filed with PBGC at least 10 days prior to the proposed termination date. Receipt by the IRS of a Form 5310 marked "IRS only" will not constitute a filing with the PBGC for purposes of Section 4041(a) of ERISA.

Finally, pension plans not covered by Title IV and other deferred compensation plans that want to obtain IRS determinations upon their termination should file Form 5310, marked "IRS only" in the Special Request box at the top of page 1, and Form 6088 only with the IRS. The PBGC, of course, has no involvement with such plans.

The proposed procedure also covers the filing requirements attendant to a plan merger, consolidation, or transfer of assets or liabilities. Any plan that is required, pursuant to section 6058(b) of the Code, to notify IRS of any of these transactions, is required to file Form 5310 with the IRS. If the plan is a defined benefit plan covered by Title IV of ERISA, filing Form 5310 in duplicate will also satisfy its obligation to file with the PBGC pursuant to section 4043(b)(8) of ERISA. The IRS will send the duplicate Form 5310 to the PBGC. All other plans should write "IRS only" in the Special Request box at the top of page 1.

In certain instances, plan administrators may wish to obtain a determination regarding qualification of a plan after a merger, consolidation, or transfer of its assets or liabilities to another plan. In that event, the plan administrator must file with IRS a Form 5300, 5301, 5303, or 5307 (whichever is applicable). If that form is filed at least 30 days prior to the merger, consolidation, or transfer of plan assets or liabilities to another plan, that filing will satisfy the requirement of filing a Form 5310. If the plan is a defined benefit plan covered by Title IV of ERISA, the actuarial statement required by line 6(g) of Form 5310 must be submitted with a duplicate completed Form 5300, 5303, or 5307 (as applicable). This filing will also satisfy the obligation to file with the PBGC pursuant to section 4043(b)(8) of ERISA. The IRS will transfer to the PBGC the information submitted.

Thus, as can be seen from this description of one-stop service, defined benefit plans covered by Title IV of ERISA normally will no longer need to make filings with both the PBGC and the IRS with respect to plan terminations or with respect to mergers, consolidations, or transfers of plan assets or liabilities. In the former situation, the plan will file Form 5310 in duplicate only with the PBGC, and in the latter case it will file Form 5310 (or Form 5300, 5303 or 5307, as explained above) in duplicate only with the IRS. The PBGC and the IRS believe that this system will make it easier and less costly for covered defined benefit plans to meet their filing requirements under ERISA and the Code. Interested members of the public are urged to comment on the concept of one-stop service.

IRS/PBGC Form 5310

As stated above, under the proposal, filings required under ERISA sections 4041(a) and 4043(b)(8) and required or allowed under Code sections 401(a) and 6058(b) are to be made on a revised Form 5310. The current Form 5310 is used for requesting an IRS determination of a plan's tax qualification status upon termination and for notifying IRS of a plan merger, consolidation, or transfer of assets or liabilities. Parts I, II and III of the current Form have been carried over as Parts I, II and III of the revised Form, with some changes to reflect that the Form is now used for certain filings with PBGC. An important change has been made in Part I of Form 5310, which now contains a Special Request box for use by plan administrators who choose not to utilize one-stop service. On those Forms 5310 which are to go only to the PBGC (*i.e* when the plan administrator does not wish to obtain an IRS determination letter), the plan admininstrator should so indicate by marking the Special Request box "PBGC only." On those Forms 5310 which are to go only to the IRS, the plan administrator should so indicate by marking the Special Request box "IRS only."

In addition, the revised 5310 contains a new Part IV, which covers the information currently required to be submitted to the PBGC as a Notice of Intent to Terminate a covered defined benefit pension plan pursuant to section 2604.4 of the PBGC's Notice of Intent to Terminate regulation. Under that regulation, as currently in effect, there is no specific form to be used for filing a Notice of Intent to Terminate, but rather plans are required to file 26 items of information. Under this proposal, the revised Form 5310 will supersede § 2604.4 of the current regulation. Part IV also covers some information that currently must be submitted to the PBGC subsequent to the filing of the Notice of Intent to Terminate. (Changes in the PBGC's Notice of Intent to Terminate regulation are discussed in the next section of this preamble.) Finally, Schedule A of current Form 5310 ("Distributable Benefits to Individual Participants") is not contained in the revised 5310; rather it will be a new IRS Form 6088.

Whenever a terminating pension, profit-sharing or other deferred compensation plan not covered under Title IV of ERISA wants to obtain an IRS determination letter regarding the plan termination, Parts I and III of Form 5310 and Form 6088 must be completed, and the Special Request box of Form 5310 should be marked "IRS only." The same rules apply to a covered defined benefit pension plan that is seeking an advance determination from the IRS regarding a possible plan termination. If the covered plan is actually terminating and an IRS determination letter is desired, Part IV of Form 5310 must also be completed and Parts I and III of Form 5310 must be submitted in duplicate. (The Special Request box should be left empty.) In this last situation, however, Form 6088 need not be filed; the participant data schedules submitted under Part IV of Form 5310, if submitted in duplicate, will be used in lieu of Form 6088. Whenever any plan is filing a notice of merger, consolidation, or transfer of plan assets or liabilities, it is required to complete Parts I and II of Form 5310.[5]

Finally, if a multiemployer plan covered under Title IV chooses to use Form 5310 for its Notice of Intent to Terminate, it need only complete Part I and Lines 7–11 of Part III of Form 5310, and submit it to the PBGC. (The optional use of Form 5310 by multiemployer

[5] As stated above, plan administrators desiring a determination regarding a plan's qualification after a merger, consolidation, or transfer of plan assests or liabilities to another plan may submit Form 5300, 5301, 5303, or 5307 in lieu of Form 5310, at least 30 days prior to such merger, consolidation, or transfer of plan assets or liabilities to another plan. Defined benefit plans covered under Title IV of ERISA must submit the actuarial statement required by line 6(g) of Form 5310 in duplicate, with a duplicate Form 5300, 5303, or 5307 in order to satisfy the obligation to file with PBGC pursuant to Section 4043(b)(8) of ERISA.

plans for compliance with § 4041(a) of ERISA is discussed in the next section of this preamble.) It should be noted that if the multiemployer plan is seeking an IRS determination letter on its termination, it will have to complete Parts I and III of Form 5310 (and Form 6088) and submit them in duplicate, so that using Form 5310 as its Notice of intent to Terminate will not require the submission of any additional information.

The proposed revised Form 5310 is being published today in the Federal Register. In addition, copies of the proposed revised Form 5310 may be obtained at Area and Regional Offices of the Labor-Management Services Administration, Department of Labor and from the PBGC. Members of the public are encouraged to submit their views on the revised Form.

Notice of Intent to Terminate

As part of this one-stop service proposal, the PBGC proposes to revise 29 CFR, Part 2604 to provide that the Notice of Intent to Terminate required by section 4041(a) of ERISA must be submitted on IRS/PBGC Form 5310 by all plans covered by Title IV other than multiemployer plans. Accordingly, it is proposed to amend Part 2604 by deleting current § 2604.4, which contains a list of the information required to be submitted with the Notice, and revising § 2604.3(a) to provide that the Notice of Intent to Terminate must be submitted on Form 5310.

As noted above, Part IV of Form 5310 covers the Notice of Intent to Terminate. In addition to incorporating current section 2604.4, Part IV also requires the submission of information which until now the PBGC has required to be submitted after the filing of the Notice. All of this information is currently collected by the PBGC, as it is needed for the processing of plan terminations. The PBGC now proposes to collect this information as part of the Notice of Intent to Terminate, in order to speed the processing of cases by reducing (and perhaps eliminating) the need to go back to plans for additional information after they have filed the Notice. These items of information, where they appear on Form 5310, and the need for them are set forth below.

(1) Record of all actions taken to terminate the plan. Part IV, Line 21(h). This information is needed to enable the PBGC to determine whether the termination date proposed by the plan is appropriate under Title IV or whether another date should be established as the date of plan termination.

(2) Whether the plan administrator intends to seek a Notice of Sufficiency. Part IV, Line 22(d). This information reflects and is necessitated by the PBGC's new procedure for processing plan terminations, as set forth in its proposed Plan Sufficiency regulation, 41 FR 48504 (November 3, 1976).

(3) The estimated plan asset insufficiency (if applicable). Part IV, Line 22(b). This information is requested because the PBGC often needs an immediate estimate of what its liability will be for guaranteed benefits. One frequently encountered need for this information is the pendency of insolvency proceedings involving the employer who maintained the plan, which may require the PBGC to promptly assert its claim for employer liability.

(4) Whether, in the case of an insufficient plan, the employer who maintained the plan has made an irrevocable commitment prior to the date of plan termination to make the plan sufficient. Part IV, Line 22(c). This information, too, is required by the new procedures that will be set forth in the PBGC's Sufficiency regulation. If the PBGC determines that the employer can honor this commitment, the commitment is treated as a plan asset in determining whether the plan is sufficient.

(5) Participant data schedules. Part IV, Line 23. This information is necessary for several reasons, chief among them to determine plan (in)sufficiency and, for an insufficient plan, to determine the amount of each participant's allocated benefit subject to guarantee.

(6) Whether the plan is covered by Title IV of ERISA. Part I, Line 5(d). Only plans covered by Title IV are required to submit a Notice of Intent to Terminate and thus to complete Part IV of Form 5310. This information, therefore, assists the agency receiving the Form (either PBGC or IRS) in ascertaining promptly whether the Form has been filed with the correct agency and whether the correct portions of the Form have been completed. Further, while the PBGC would expect that plan administrators generally know whether their plans are covered by the Title IV termination insurance program of ERISA, there may be doubts respecting coverage of some plans. Line 5(d) will indicate to the PBGC whether it must first make a coverage determination on the plan before beginning the usual case processing.

Line 5(d) provides that where coverage of the plan has not been determined, Part IV of the Form need not be completed. This does not in any way alter the obligation of a plan covered under Title IV to submit a Notice of Intent to Terminate. However, PBGC recognizes that Part IV calls for the submission of a substantial amount of information and does not wish to put a plan that might not, in fact, be covered to the trouble and expense of completing Part IV. Accordingly, a plan that indicates on Line 5(d) that its coverage has not been determined may choose to submit Form 5310 (and a copy of the plan document, any plan amendments and any IRS determination letters, as required by Line 5(d)) without completing Part IV. If the PBGC determines that the plan is covered, it will so advise the plan and a completed Part IV will then have to be submitted.

Because of the requirement in section 4041(a) that the Notice be submitted at least 10 days prior to the proposed date of termination, in the circumstances described in the preceding paragraph, PBGC will consider the date on which the initial filing of Form 5310 is made as the date of filing the Notice for purposes of section 4041(a). This will, absent other problems, enable a plan to keep its proposed date of termination even though Part IV is not filed until a later date. However, because the 90-day period in section 4041, during which PBGC must determine whether or not a plan is sufficient, runs from the proposed date of termination, the PBGC won't have the information needed to make this determination until well into, or perhaps after, the 90-day period. Under section 4041(d), the PBGC and the plan administrator can agree to extend this 90-day period. Since the 90-day period must be extended to assure the PBGC of actually having 90 days to process a Notice of Intent to Terminate, proposed section 2604.4(d) and Line 5(d) of the Form provide that when a plan administrator chooses not to complete Part IV in his initial filing, and the PBGC determines that the plan is covered under Title IV, the plan administrator shall be deemed to have agreed, pursuant to section 4041(d), to an extension of the 90-day period until the date 90 days after the date on which a completed Part IV is filed with the PBGC.

Other changes have been made in Part 2604 to reflect the fact that Form 5310 is to be used both for filing a Notice of Intent to terminate and for requesting an IRS determination of tax qualification. Section 2604.3(b), "Who shall file", has been changed by adding the IRS rules with respect to the submission of filings and the appearance before the agency by a representative of the taxpayer. Whenever a Form 5310 is filed both as a Notice under this part and as a request

for a determination these IRS rules apply, and the applicable IRS Power of Attorney or Authorization and Declaration form (Forms 2848 and 2848–D, respectively) should be used. When Form 5310 is being submitted only as a Notice of Intent to terminate by a representative of the plan administrator other than an attorney-at-law, a notarized power of attorney is required but no specific form is prescribed.

Also, the provision pertaining to the effect of a failure to file the required Notice of Intent to Terminate (currently § 2604.3(f); § 2604.4(a) in this proposal) has been modified to provide that filing a Form 5310 marked "IRS only" does not constitute a filing of a Notice of Intent to Terminate. Finally, in line with the purpose of this new one-stop service procedure to eliminate duplicative filing requirements, the PBGC has determined that the notice to interested parties required under section 7476 of the Code will satisfy the requirements of section 2604.3(e) pertaining to notice to employees of a pending plan termination. Thus, one notice, the section 7476 notice, may be used in place of two notices.

The proposed amendments also make a number of non-substantive, editorial changes to Part 2604. As noted above, current § 2604.4 has been deleted and paragraphs (c) and (d) of that section now appear as paragraphs (b) and (c) of a new § 2604.4, which contains all of the provisions relating to failure to file (new § 2604.4(a)), incomplete filings, extension of time to file and waiver of the obligation to file. Further, purely editorial language changes have been made in §§ 2604.3 (c) and (d) and 2604.4 (b) and (c); these changes have no substantive effect.

Finally, as mentioned above, while Part 2604 does not apply to multiemployer plans covered under Title IV, those plans are still required to submit a Notice of Intent to Terminate to the PBGC at least 10 days prior to the proposed date of termination. PBGC has not, however, specified the form of that Notice. Multiemployer plans who choose to do so, may satisfy the Notice requirement by submitting to the PBGC Form 5310 with Part I and Lines 7–11 of Part III completed. (Multiemployer plans that are requesting an IRS determination letter on their termination must complete Parts I and III of Form 5310 and Form 6088 for that purpose.) The use of this Form for the filing of a Notice of Intent to Terminate by a Multiemployer plan is not mandatory, but it may be convenient for these plans to use this Form.

The PBGC requests members of the public to submit their comments on the revision of Part 2604 set forth in this proposal.

In consideration of the foregoing, it is hereby proposed to revise Part 2604 of Title 29, Code of Federal Regulations, to read as follows:

PART 2604—NOTICE OF INTENT TO TERMINATE

Sec.

Authority: Secs. 4002, 4041, Pub. L. 93–406, 88 Stat. 1004, 1020 (29 U.S.C. 1302, 1341).

§ 2604.1 Purpose and scope

(a) *Purpose.* The purpose of this part is to prescribe for non-multiemployer plans the contents of and the procedures for filing the Notice of Intent to Terminate required by section 4041(a) of the Act.

(b) *Scope.* This part applies to all Notices of Intent to Terminate non-multiemployer pension benefit plans covered by Title IV of the Act that are required to be filed after [the effective date of this revision].

§ 2604.2 Definitions.

As used in this part—

"Act" means the Employee Retirement Income Security Act of 1974, 88 Stat. 829 et. seq.

"PBGC" means the Pension Benefit Guaranty Corporation.

"IRS" means the Internal Revenue Service.

§ 2604.3 Requirement of notice.

(a) *General.* A Notice of Intent to Terminate a plan to which this part applies shall be filed with the PBGC. Each Notice of Intent to Terminate required under this part shall be filed on IRS/PBGC Form 5310, in accordance with the instructions contained therein.

(b) *Who shall file.* The plan administrator, as defined in section 3(16) of the Act, or a duly authorized representative acting on behalf of the plan administrator, shall sign and file the Notice. When the Notice is submitted only to the PBGC by a duly authorized representative other than an attorney-at-law, it shall be accompanied by a notarized power of attorney, signed by the plan administrator, which authorizes the said representative to submit such a Notice, and, if desired, also authorizes the representative to act on behalf of the plan administrator in connection with the termination. When the Notice is being submitted to both the PBGC and the IRS by a duly authorized representative, it shall be accompanied by a power of attorney specifically authorizing such representation in this matter or by a written declaration that the representative is currently qualified as an attorney, a certified public accountant or as an enrolled actuary or is currently enrolled to practice before the Internal Revenue Service and that such person is authorized to represent the principal.

(c) *When to file.* A Notice required by this part shall be filed with the PBGC (*i.e.* received by the PBGC) at least 10 days prior to the proposed date of termination of the plan.

(d) *How and where to file.* A Notice required by this part may be sent by mail or submitted by hand during normal working hours to the Pension Benefit Guaranty Corporation, Office of Program Operations, Room 5300, 2020 K Street, N.W., Washington, D. C. 20006.

(e) *Notice to employees.* Whenever a Notice is filed pursuant to this part, the plan administrator or his or her duly authorized representative shall immediately give written notification of the filing of the Notice to the employees covered by the plan. The notification shall state the date on which the Notice was filed and the date of termination proposed in the Notice. If the employees are represented by a union, the notification shall be delivered to the union representative. If the employees are not represented by a union, the notification shall be posted in the location or locations normally used by the employer for posting notices to employees.

§ 2604.4 Effect of failure to file; extension of time and waiver of obligation to file.

(a) *Effect of failure to file.* Failure to file the Notice required by this part prior to the termination of a pension plan constitutes a violation of the provisions of title IV of the Act. Filing Form 5310 designated "IRS only" is not a filing of the Notice required by this part.

(b) *Effect of failure to file all required information.* Failure to file all of the information required by this part, as set forth in IRS/PBGC Form 5310, shall render the Notice incomplete and voidable by the PBGC; *Provided,* that the Notice will not be voidable by the PBGC if the PBCG pursuant to paragraph (c) of this section grants an extension of time to complete the filing or waives the obligation to file any of the required information.

(c) *Extension of time or waiver of obligation to file information.* At the

time of filing the Notice or prior thereto, the plan administrator or his or her duly authorized representative may request an extension of time to complete the filing or a waiver of the obligation to file any information required to be filed pursuant to this part. The request shall be in writing and state the reasons for the relief sought. A request for an extension of time shall also be accompanied by duplicate originals of an agreement signed by the plan administrator or his or her duly authorized representative, pursuant to which he or she agrees that if the PBGC grants the request, the 90-day period set forth in section 4041(a) of the Act during which the plan administrator may not make any distributions pursuant to the proposed termination of the plan shall be automatically extended by a period of time equal to the extension of time granted by the PBGC. When the PBGC grants an extension of time, an executed copy of the agreement submitted with the request for extension will be returned to the plan administrator or his or her duly authorized representative. When the PBGC grants a request to waive the filing of any information required to be filed by this part, the plan administrator or his or her duly authorized representative will be so notified in writing.

(d) *Special rules for plans where title IV coverage has not been determined.* If a plan administrator of a terminating pension plan is not certain whether the plan is covered under Title IV of the Act and has not received a determination of coverage for the plan from the PBGC, he or she or his or her duly authorized representative may submit IRS/PBGC Form 5310 without completing the Notice of intent to Terminate portion of the Form (Part IV of the Form), as provided in the Form and Instructions. However, if the plan administrator or his or her duly authorized representative submits Form 5310 without completing Part IV thereof, and the PBGC determines that the plan is covered by title IV of the Act, the plan administrator or the duly authorized representative will be deemed to have agreed to an extension of the 90-day period set forth in section 4041(a) of the Act until a date 90 days after the date on which the plan administrator or his or her duly authorized representative files with the PBGC a Form 5310 with the Notice of intent to Terminate portion, Part IV, completed.

(e) Nothing in paragraphs (c) and (d) of this section shall in any way alter or limit the authority contained in section 4041(d) of the Act of the PBGC and a plan administrator or the duly authorized representative to agree to further extensions of the 90-day period set forth in § 4041 or of the PBGC to apply to a court for an order extending that 90-day period.

§ 2604.5 Date of filing.

Any notice or document required to be filed under the provisions of this part shall be deemed filed on the date on which it is received by the PBGC.

§ 2604.6 Computation of time.

In computing any period of time prescribed or allowed by the rules of this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Federal holiday.

Issued in Washington, D.C. this 18th day July, 1979.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors approving this regulation and authorizing its Chairman to issue same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

BILLING CODE 7708-01-M

Form **5310**
(Rev. April 1979)
Department of the Treasury
Internal Revenue Service

Pension Benefit
Guaranty Corporation

Application for Determination Upon Termination; Notice of Merger, Consolidation or Transfer of Plan Assets or Liabilities; Notice of Intent to Terminate

(Under sections 401(a) and 6058(b) of the Internal Revenue Code and Sections 4041(a) and 4043(b)(8) of the Employee Retirement Income Security Act of 1974)

Please complete all items in Part I.

Reason(s) for filing (check applicable box(es)):

A ☐ Notice of plan ▶ *(i)* Merger, *(ii)* Consolidation **OR** *(iii)* Transfer of plan assets or liabilities to another plan—Complete Parts I and II

B ☐ Submission of ▶ *(i)* Application for a determination letter regarding a plan termination,

(ii) Notice of intent to terminate a defined benefit plan covered by the Pension Benefit Guaranty Corporation termination insurance program (See item 5(d) and Instruction) **OR**

(iii) Both an application for a determination upon termination and a notice of intent to terminate—See General Instruction C, What and When to File.

C Special Request

☐ Complete as directed in General Instruction C.

Part I All Filers Complete This Part

1 (a) Name of employer or association of employers or employees	1 (b) Employer identification number
Address (number and street)	1 (c) Employer's telephone number ( )
City or town, State and ZIP code	1 (d) Employer's taxable year ends Month Day Year 19
2 (a) Name of plan administrator if other than person(s) named in 1(a) above	1 (e) Business code number
Address (number and street)	1 (f) Date incorporated or business commenced
City or town, State and ZIP code	2 (b) Administrator's employer identification no.
3 Office of District Director of district where employer is located	2 (c) Telephone number of administrator ( )

4 Check appropriate box(es) to indicate type of plan entity (see definitions):

(a) ☐ Single employer plan
(b) ☐ Plan of controlled group of corporations or commonly controlled employers
(c) ☐ Multiemployer plan
(d) ☐ Other multiple employer plan
(e) ☐ Keogh (HR 10) plan

5 (a) Plan name	(b) Plan number	(c) Plan year ends

(d) Is this a defined benefit plan covered under the Pension Benefit Guaranty Corporation termination insurance program? . . . . . *(i)* ☐ Yes *(ii)* ☐ No *(iii)* ☐ Not determined

If you checked (i) and in any prior filing with PBGC the employer identification number or plan number reported in such filing was different than the ones reported in items 1(b) or 5(b) above, list the numbers previously reported ▶ .....

.....

If you checked (ii) do not complete Part IV of this form.
If you checked (iii) attach an executed copy of the plan document and any amendments to the plan document, and a copy of the IRS determination letter or letters for the plan. You are not required to complete Part IV of this form. However, failure to do so may result in an extension of the 90-day period prescribed in section 4041(a) of ERISA during which no plan assets may be distributed pursuant to the plan termination. (See specific instructions.)

Under penalties of perjury, I declare that I have examined this application, including accompanying statements, and to the best of my knowledge and belief it is true, correct and complete.

Signature ▶ _____ Title ▶ _____ Date ▶ _____

Signature ▶ _____ Title ▶ _____ Date ▶ _____

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Part II To be Completed ONLY for a Plan Merger or Consolidation or Transfer of Plan Assets or Liabilities to Another Plan

6 Other plan(s): (a) Plan name | (b) Name of employer

(c) Employer identification number | (d) Plan number | (e) Date of merger, consolidation or transfer

(f) Is the successor plan a defined benefit plan? . . . . . ☐ Yes ☐ No

(g) In the case of a defined benefit plan attach an actuarial statement of valuation evidencing compliance with the requirements of section 401(a)(12) of the Code and the Income Tax Regulations under section 414(l) of the Code.

Part III Complete This Part ONLY if You Checked "B" Under Reason for Filing

7 Type of plan (check appropriate box):
- (a) ☐ Defined benefit (see definitions)
- (b) ☐ Money purchase
- (c) ☐ Profit-sharing
- (d) ☐ Other (specify) ▶

8 Effective date of plan | 9 Date and file folder number of last determination letter | 10 Proposed date of termination

11 Reason for termination (check applicable box).
- (a) ☐ Change in ownership by merger
- (b) ☐ Liquidation or dissolution of employer
- (c) ☐ Change in ownership by sale or transfer
- (d) ☐ Adverse business conditions (see instructions)
- (e) ☐ Adoption of new, superseding plan
- (f) ☐ Other (specify) ▶

12 Type of funding (check appropriate box(es)):
- (a) ☐ Trust or custodial account
- (b) ☐ Fully insured
- (c) ☐ Combination
- (d) ☐ Other (specify) ▶

13 (a) Name of trustee or custodian (if none, enter "N/A" in 13(a) and (b)) | (b) Date accounting period ends

Address (number and street)

City or town, State and ZIP code

14 Number of active employee participants (those who have not incurred a break in service) for current plan year and each of the five prior plan years:

Item	19.....	19.....	19.....	19.....	19.....	19..... (current year)
(a) Beginning of year						
(b) Added during the year . . .						
(c) Total of lines (a) and (b) . .						
(d) Dropped during the year . .						
(e) Total end of year, (c) less (d) .						

15 Summary:

Category of Participant or Claimant	Total number	Amount of monthly benefits
(a) Retirees and beneficiaries (including disability retirees)		
(b) Eligible for normal retirement		
(c) Eligible for early (but not normal) retirement		
(d) Vested prior to termination (other than normal or early retirement)		
(e) Former employees with vested deferred benefits		
(f) All other active participants		
(g) Total (add lines (a) through (f))		

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16 Miscellaneous:	Yes	No
(a) Has the plan been amended since the last determination letter to affect the rights of employees to vest in benefits under the plan?		
(b) Has the plan been amended since the last determination letter to decrease future benefits under the plan?		
(c) Has each employee who qualifies as an interested party been informed of the filing of this application?		
(d) Have benefits or vesting been liberalized in the 60 months prior to termination?		
(e) Will the trust continue to operate after termination of the plan?		
(f) Were any funds contributed in the form of, or invested in, obligations or property of the employer or any controlled corporation?		
(g) Will distributions include property other than cash?		
(h) Will distributions to owner-employees be made prior to age 59½?		
(i) Will any funds revert to or become available to the employer?		
(j) Is any issue relating to this plan, or trust, currently pending before ☐ the Internal Revenue Service, ☐ the Department of Labor, ☐ the Pension Benefit Guaranty Corporation, or ☐ any court? If "Yes," check box above to indicate where issue is pending		
(k) Is there an accumulated funding deficiency?		
If "Yes," enter the amount of the accumulated funding deficiency ▶		
(l) Have all unallocated funds which can be reallocated to participants without exceeding the limitations of section 415 of the Code been allocated?		
(m) Did the plan originally contain a provision allowing this allocation?		
If "No," was the plan amended to provide for this allocation?		

17 If a defined contribution plan, such as a profit-sharing, stock bonus or other such plan where forfeitures are credited to individual account balances, enter forfeiture information as follows:

(a) Total forfeitures for all plan years

(b) Percent of total forfeitures to total contributions for all plan years %

(c) Explain basis on which forfeitures were allocated ▶

18 Indicate how distributions will be made:

(a) ☐ Lump-sum
(b) ☐ Annuity
(c) ☐ Periodic payments from trust
(d) ☐ Transfer of assets and liabilities to another plan
(e) ☐ Other (specify) ▶

19 Balance sheet (read instructions before completing this item):

Assets	
(a) Cash	
(b) Receivables—	
(i) Employer contributions	
(ii) Other	
(c) Investments—	
(i) Government securities	
(ii) Pooled funds/mutual funds	
(iii) Corporate (debt and equity instruments)	
(iv) Real estate and mortgages	
(v) Other	
(d) Buildings and other depreciable property	
(e) Unallocated insurance contracts	
(f) Other assets	
(g) Total assets (add lines (a) through (f))	
Liabilities and Net Assets	
(h) Payables	
(i) Acquisition indebtedness	
(j) Other liabilities	
(k) Total liabilities (add lines (h) through (j))	
(l) Net assets (subtract line (k) from line (g))	

Part IV To be Completed ONLY for a Notice of Intent to Terminate

20 (a) Name of labor organization	(b) Telephone number ( )
Address (number and street)	(c) Name of principal officer
City or town, State and ZIP code	(d) Title of principal officer

21 Indicate the applicable attachments that you are submitting by checking the appropriate column:	Submitted	Not applicable
(a) Power of attorney		
(b) Executed copy of plan document		
(c) Executed copy of amendments to the plan document (see instructions)		
(d) Executed copy of group annuity or group insurance contracts		
(e) Executed copy of trust agreements		
(f) Executed copy of collective bargaining agreements		
(g) IRS determination letters		
(h) Record of all actions taken to terminate the plan		
(i) Copy of the most recent actuarial report		
(j) Copy of the most recent financial statement		

22 Sufficiency of plan assets (answer each of the following questions):	Yes	No
(a) Are plan assets, when allocated in accordance with section 4044 of ERISA, believed sufficient to satisfy guaranteed benefits under section 4022 of ERISA? If "Yes," complete (d); if "No," complete (b) and (c).		
(b) Indicate estimated amount of insufficiency ▶		
(c) Does the employer make an irrevocable commitment prior to the date of termination to make the plan sufficient? (see instructions) If "Yes," complete (d).		
(d) Do you intend to demonstrate sufficiency of assets and seek a notice of sufficiency? (see instructions)		

23 Participant data schedules in the format set forth in the instructions are required for the following groups of participants:
(a) Active participants as of the proposed date of termination and separated participants with deferred vested benefits.
(b) Retired participants and beneficiaries entitled to benefits from the plan.

U.S. GOVERNMENT PRINTING OFFICE 1979—263-436 1979—263-436-1

Form **6088**
(April 1979)
Department of the Treasury
Internal Revenue Service
Pension Benefit Guaranty Corporation

Distributable Benefits from Employee Pension Benefit Plans

▶ Attach to application for determination—regarding a plan termination or partial termination.

This Form is NOT Open to Public Inspection

Name of employer

Employer identification number

Line no.	(a) Participant's last name and initials (list in order of compensation)	Check applicable columns: (b) Officer/shareholder	(c) Owner-employee	(d) Other self-employed	(e) Other employee	(f) Benefits fully vested before termination	Fill in columns: (g) Years of participation	(h) Age at termination	(i) Percent of business owned (1% or more)	(Money amounts should be in whole dollars. Round off to nearest dollar.) Compensation: (j) Current 12 month period ending on date of termination or proposed date of termination	(k) For all full years of participation or for last ten years, whichever is lesser	(l) Amount of employer contributions distributed or proposed to be distributed as of plan termination date. Defined contribution plans list allocations in column (A). Defined benefit plan see note* below. (A)	(B)
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													
21													
22													
23													
24	Totals for above												
25	Totals for all others												
26	Totals for lines 24 and 25												

* Defined benefit plans list amounts allocated in accordance with section 4044(a)(1), (2), (3) and (4)(A) of the Employee Retirement Income Security Act of 1974 under column (l)(A), and list under column (l)(B) all other allocated amounts.

263-477-1

General Instructions

(References are to the Internal Revenue Code)

Every employer or plan administrator who files an application for determination upon termination with respect to a defined benefit or a defined contribution plan is required to attach thereto this schedule, which must be completed in all details.

Prepare the employee census as of the date of termination or proposed termination.

Section 6104(a)(1)(B) provides generally that applications, filed with respect to the qualification of a pension, profit-sharing or stock bonus plan, shall be open to public inspection. However, section 6104(a)(1)(C) provides that information concerning the compensation of any participant shall not be opened to public inspection. Consequently, the information contained in this schedule shall not be made available to the public, including plan participants and other employees of the employer who established the plan.

This schedule is to be used by the Internal Revenue Service in its analysis of an application for determination as to whether a plan of deferred compensation qualifies under section 401(a) or 405(a).

If there are fewer than 25 participants, list all the participants. Otherwise, only the 25 highest-paid participants need be listed.

Specific Instructions

In column (a), list the participants in the order of compensation, starting with the highest-paid participant followed by the next highest-paid participant, and so on. Omit those employees who did not become participants under the plan prior to termination.

In column (j), enter compensation as of the 12-month period ending on the proposed termination date.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1979—O-263-477 263-477-1

Department of the Treasury
Internal Revenue Service

Pension Benefit
Guaranty Corporation

Instructions for Form 5310
(Revised April 1979)
Application for Determination Upon Termination
Notice of Merger, Consolidation or Transfer of Plan Assets or Liabilities
Notice of Intent to Terminate

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

The filing of a properly completed Form 5310 (Rev. April 1979) will satisfy the filing requirements for IRS under section 6058(b) of the Code and the filing requirements for PBGC under sections 4041(a) and 4043(b)(8) of ERISA.

General Instructions

A. Who Must File.—

1. Defined Benefit Pension Plans Covered Under the PBGC Termination Insurance Program.—Every plan administrator of a defined benefit pension plan covered under the PBGC termination insurance program must file this form for any plan termination and for any plan merger, consolidation or transfer of plan assets or liabilities to another plan. See section 4041 (a) of ERISA and section 6058(b) of the Code.

Note: *The merger of a defined benefit plan covered under the PBGC termination insurance program with a defined contribution plan, resulting solely in a defined contribution plan, is considered a termination of the defined benefit plan.*

2. Funded Pension, Profit-Sharing and Other Deferred Compensation Plans Not Covered Under the PBGC Termination Insurance Program.—Every employer or plan administrator (if designated) of a funded pension, profit-sharing or other deferred compensation plan not covered under the PBGC termination insurance program which is subject to section 414(l) of the Code must file this form for any plan merger, consolidation or transfer of plan assets or liabilities to another plan. See section 6058(b) of the Code.

B. Who May Voluntarily File.—This form may be filed for any defined benefit pension plan or any other funded pension, profit-sharing or other deferred compensation plan wishing to request the IRS to make a determination as to the plan's qualification status upon the plan's termination.

C. What and When to File.—

1. Defined Benefit Pension Plans Covered Under the PBGC Termination Insurance Program.—

(a) which are terminating and are requesting a determination letter from IRS regarding their qualification upon termination should complete Parts I and III of this form in duplicate, one copy of Part IV and either attach one copy of Form 6088 or duplicate copies of the schedule required in line 23. These forms should be filed with PBGC at least 10 days prior to the proposed termination date of the plan.

(b) which are terminating and are not requesting a determination letter from IRS regarding their qualification upon termination should complete Parts I, III and IV of this form and file it with PBGC at least 10 days prior to the proposed termination date of the plan. Write "PBGC only" in the Special Request box in item C on top of page 1.

(c) which are requesting an advanced determination letter from IRS and not filing a notice of intent to terminate with PBGC, should complete Parts I and III of this form and attach a completed copy of Form 6088. These forms may be filed with IRS any time a determination letter is desired. Write "IRS only" in the Special Request box in item C on top of page 1.

Note: *Defined benefit plans covered under the PBGC termination insurance program that are only requesting an advanced determination letter should file with IRS only. However, if the plan subsequently terminates, a notice of intent to terminate must be submitted only to PBGC at least 10 days prior to the proposed termination date of the plan.*

(d) which are going to merge, consolidate or transfer plan assets or liabilities to another plan should complete Parts I and II of Form 5310 and file it in duplicate with IRS at least 30 days prior to the merger, consolidation or transfer of assets or liabilities to another plan. The filing of this form with IRS will satisfy the filing requirement of PBGC under section 4043(b)(8) of ERISA. If a request for a determination letter as to the qualification of the plan after such merger, consolidation or transfer of plan assets or liabilities to another plan is applied for on the applicable Form 5300, 5303 or 5307 at least 30 days prior to the above transactions a Form 5310 is not required to be filed; however, the actuarial statement required in line 6(g) of Form 5310 must be submitted in duplicate with the applicable form, also submitted in duplicate.

Note: *The merger of a defined benefit plan covered under the PBGC termination insurance program with a defined contribution plan, resulting solely in a defined contribution plan, is considered a termination of the defined benefit plan. The filing requirements in paragraphs C 1 (b) and (d) above apply to the plan termination and to the plan merger, respectively.*

2. Funded Pension, Profit-Sharing and Other Deferred Compensation Plans Not Covered Under the PBGC Termination Insurance Program.—

(a) which are terminating and are requesting a determination letter from IRS regarding their qualification upon termination should complete Parts I and III of this form and Form 6088 and file them with IRS. This application may be filed any time a determination letter is desired. Write "IRS Only" in the Special Request box in item C on top of page 1.

(b) which are going to merge, consolidate or transfer plan assets or liabilities to another plan and are subject to section 414(l) of the Code must complete Parts I and II of Form 5310 and file it with IRS at least 30 days prior to the merger, consolidation or transfer of plan assets or liabilities to another plan. Write "IRS Only" in the Special Request box in item C on top of page 1.

If a request for a determination letter as to the qualification of the plan after such merger, consolidation or transfer of plan assets or liabilities to another plan is applied for on the applicable Form 5300, 5301, 5303, or 5307 at least 30 days prior to the above transactions a Form 5310 is not required to be filed.

3. Defined Benefit Plans Where Coverage Under the PBGC Termination Insurance Program is Unknown.—

(a) which are terminating and are requesting a determination letter from IRS should complete Parts I and III in duplicate and attach a copy of Form 6088. These forms should be filed with PBGC at least 10 days prior to the proposed termination date of the plan. Completion of Part IV is optional (see instructions for line 5(d)).

(b) which are terminating and are not requesting a determination letter from IRS should complete Parts I and III and file it with PBGC at least 10 days prior to the proposed termination date of the plan. Completion of Part IV is optional (see instructions for line 5(d)). Write "PBGC only" in the Special Request box in item C on top of page 1.

Note: *If Part IV is not completed, the plan documents, any amendments and any IRS determination letters for the plan must be submitted with Parts I and III.*

(c) which are only requesting an advanced determination letter from IRS should complete Parts I and III of this form and attach a copy of Form 6088. These forms should be filed with IRS at any time a determination letter is desired. Write "IRS only" in the Special Request box in item C on top of page 1.

(d) which are going to merge, consolidate or transfer plan assets or liabilities to another plan and are subject to section 414(l) of the Code should complete Parts I and II and file it in duplicate with IRS at least 30 days prior to the merger, consolidation or transfer of assets and liabilities to another plan. The filing of this form with IRS will satisfy the filing requirements of PBGC under section 4043(b)(8) of ERISA should the plan be covered under the PBGC termination insurance program. If a request for a determination letter as to the qualification of the plan after such merger, consolidation or transfer of plan assets or liabilities to another plan is applied for on the applicable Form 5300, 5303, or 5307 at least 30 days prior to the above transactions a Form

5310 is not required to be filed; however, the actuarial statement in line 6(g) of Form 5310 must be submitted in duplicate with the applicable form, also submitted in duplicate.

Note: The merger of a defined benefit plan covered under the PBGC termination insurance program with a defined contribution plan, resulting solely in a defined contribution plan, is considered a termination of the defined benefit plan. The filing requirements in paragraphs C 3(b) and (d) above apply to the plan termination and to the plan merger, respectively.

D. Where to File.—

1. Where to File with PBGC.—Those Forms 5310 that are to be filed with PBGC are to be sent or submitted by hand to the Pension Benefit Guaranty Corporation, Office of Program Operations, Room 5300, 2020 K Street, NW., Washington DC 20006. If you have any questions, you may phone PBGC at 202–254–4817.

2. Where to File with IRS.—Those Forms 5310 that are to be filed with IRS are to be filed as follows:

(a) Single Employer Plans.—A plan maintained by one employer or solely by one employee organization must file with the District Director for the district in which the employer's or employee organization's principal place of business is located.

(b) In the case of a plan maintained by more than one employer, the plan sponsor must file with the District Director for the district in which is located the principal place of business of the plan sponsor, that is, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

E. Failure to File a Notice of Intent to Terminate.—Failure to file the notice of intent to terminate, including the filing of a Form 5310 designated "IRS only", prior to the termination of a plan covered under the PBGC termination insurance program constitutes a violation of the provisions of Title IV of ERISA. Failure to file any information required for a notice of intent to terminate shall render the form incomplete and voidable by PBGC unless PBGC grants an extension of time to complete the filing or waives the obligation to file any required information. (See General instruction F.)

F. Extension of Time or Waiver of Obligation to File Any of the Information Required on the Notice of Intent to Terminate.—At the time of filing the notice of intent to terminate or prior thereto, the plan administrator may request an extension of time to complete the filing of the form or a waiver of the obligation to file any of the information required on the form. Such request shall be in writing and state the reasons for the extension or waiver. A request for an extension of time shall be accompanied by duplicate originals of an agreement signed by the plan administrator or his duly authorized representative, pursuant to which he agrees that if PBGC grants such request, the 90-day period set forth in Section 4041(a) of ERISA during which the plan administrator may not make any distributions pursuant to the proposed termination of the plan shall be automatically extended by a period of time equal to the extension of time granted by PBGC. When PBGC grants an extension of time, it shall sign the agreement submitted and return the signed agreement to the plan administrator or his duly authorized representative.

G. Penalties.—There is a penalty of $10 (not to exceed $5,000) for each day after the thirtieth day before a plan merger, consolidation or transfer of plan assets or liabilities to another plan for which a required Form 5310 is not filed.

H. Signatures.—This form must be signed by the plan administrator and, when filed for a single employer plan, also by the employer, or by a duly authorized representative of each who must be either an attorney, a certified public accountant, an enrolled actuary or a person enrolled to practice before the IRS (see the instructions for line 21(a)).

When the plan administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign.

Summary of Filing Requirements

Type of plan	Where to file	What to file	When to file
Plans Covered by PBGC Termination Insurance Program			
1 which are terminating and are requesting a determination letter from IRS	PBGC	Form 5310 Parts I and III in duplicate, one copy of Part IV and either Form 6088 or duplicate copies of the schedules in line 23	At least 10 days prior to the proposed termination date
2 which are terminating and are not requesting a determination letter from IRS	PBGC*	Form 5310 Parts I, III and IV	At least 10 days prior to the proposed termination date
3 which are only requesting an advance determination letter from IRS	IRS**	Form 5310 Parts I and III and Form 6088	Any time a determination letter is requested
4 which are going to merge, consolidate or transfer plan assets or liabilities to another plan	IRS	Form 5310 Parts I and II in duplicate or the applicable Form 5300, 5303 or 5307 in duplicate and the actuarial statement in line 6(g) of Form 5310 in duplicate.	At least 30 days prior to the merger or transfer
Plans Not Covered by PBGC Termination Insurance Program			
1 which are terminating and are requesting a determination letter from IRS	IRS**	Form 5310 Parts I and III and Form 6088	Any time a determination letter is requested
2 which are subject to section 414 (1) of the Code and are going to merge, consolidate or transfer plan assets or liabilities to another plan	IRS**	Form 5310 Parts I and II or the applicable Form 5300, 5301, 5303 or 5307	At least 30 days prior to the merger or transfer
Plans Where Coverage by PBGC Termination Insurance Program is Unknown			
1 which are terminating and are requesting a determination letter from IRS	PBGC	Form 5310 Parts I and III in duplicate and one copy of Form 6088 (Part IV is optional)***	At least 10 days prior to the proposed termination date
2 which are terminating and are not requesting a determination letter from IRS	PBGC*	Form 5310 Parts I and III (Part IV is optional)***	At least 10 days prior to the proposed termination date
3 which are only requesting an advanced determination letter from IRS	IRS**	Form 5310 Parts I and III and Form 6088	Any time a determination letter is requested
4 which are subject to section 414(l) of the Code and are going to merge, consolidate or transfer plan assets or liabilities to another plan	IRS	Form 5310 Parts I and II in duplicate or the applicable Form 5300, 5303 or 5307 in duplicate and the actuarial statement in line 6(g) of Form 5310 in duplicate	At least 30 days prior to the merger or transfer

*Write "PBGC only" in Special Request box.
**Write "IRS only" in Special Request box.
***If Part IV is not completed, the plan documents, any amendments and any IRS determination letters must be submitted with Parts I and III.

263–437–1

I. Definitions.—

1. Type of Plan Entity.—

(a) Single Employer Plan.—A single employer plan is a plan which is maintained solely by one employer or solely by one employee organization. A member of a controlled group of corporations or of common control trades or businesses who maintains a plan not involving other members of the controlled group of corporations or common control trades or businesses is considered to have a single employer plan.

(b) Plan of a Controlled Group of Corporations or Common Control Trades or Businesses is a plan maintained by either a Controlled Group of corporations (see section 414(b) of the Code) or common control trades or businesses (see section 414(c) of the Code) solely for the employees of the controlled group of corporations or the common control trades or businesses.

(c) Multiemployer Plan is a plan defined in section 3(37) of ERISA or section 414(f) of the Code.

(d) Other multiple employer plan is any plan of more than one employer other than a plan defined in (b) or (c) above.

2. Defined Contribution Plan.—A defined contribution plan is a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account. Profit-sharing, stock bonus and money purchase plans are defined contribution plans. See section 414(i) of the Code and section 3(34) of ERISA.

3. Defined Benefit Plan.—A defined benefit plan is any plan which is not a defined contribution plan. Such plans include unit benefit, fixed benefit, flat benefit plans and plans defined in section 414(k) of the Code. See section 414(j) of the Code and section 3(35) of ERISA.

Specific Instructions

Line 1(a). Enter the name and address of the plan sponsor as defined below in (i), (ii) or (iii). Note: *In all cases where a plan covers only the employees of one employer, enter the name and address of the employer.*

The term "plan sponsor" means:

(i) the employer in the case of an employee benefit plan established or maintained by a single employer,

(ii) the employee organization in the case of a plan established or maintained by an employee association, or

(iii) in the case of a plan established or maintained jointly by one or more employers and one or more employee organizations or by two or more employers—the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Include enough information in 1(a) to adequately describe the sponsor. For example, Joint Board of Trustees for Local 187 Machinists, rather than just Joint Board of Trustees.

Line 1(b). Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor (the employer if this is a single employer plan). This should be the same EIN that was used when filing Form 5500, 5500–C or 5500–K for this plan.

Line 1(d). When this return is filed for a single employer plan, enter the date the employer's taxable year ends. For all plans of more than one employer enter "N/A."

Line 1(e). Enter the same business code that you entered on line (e) of your most recently filed Form 5500–C or Form 5500–K; whichever is applicable.

Line 2(a). If the plan administrator is the same as the sponsor named in 1(a) enter "Same." If the plan administrator designated in the plan document is other than the sponsor enter the name of such plan administrator.

Line 3. Defined benefit plans should enter the District Director's office where the plan sponsor's principal place of business is located.

Line 5(b). Enter the three-digit number the employer or plan administrator has assigned to the plan. This number should be the same as the three-digit number entered on line 5(c) of the latest applicable Form 5500, 5500–C or 5500–K filed for the this plan.

Line 5(d). If you checked (iii) you are not required to complete Part IV, but if it is determined that the plan is covered under the PBGC termination insurance program, the plan administrator will be deemed to have agreed that the 90-day period prescribed in section 4041(a) of ERISA during which no plan assets may be distributed pursuant to the plan termination will be extended until a date 90 days after the date on which a completed Part IV is filed with PBGC.

Line 6. If your reason for filing is "A" notice of plan merger, consolidation or transfer of plan assets or liabilities to another plan complete items 6(a) through 6 (e) for the plan into which the plan named in line 5 is being merged or consolidated or the plan to which the assets or liabilities of the plan named in line 5 are being transferred.

Line 11(d). If the plan termination is due to adverse business conditions attach an explanation of why such adverse conditions require the termination of this plan.

Line 12(a). Check for trust or custodial account providing benefits through means other than insurance or annuity contracts.

Line 12(b). Check for trust or other arrangement providing benefits, exclusively through insurance and/or annuity contracts.

Line 12(c). Check for trust or arrangement providing benefits partially through insurance and/or annuity contracts.

Line 16(c).

(i) Each employer who requests a determination must have notified each employee who qualifies as an interested party

(ii) Whenever this form is filed as a notice of intent to terminate, the plan administrator or his duly authorized representative shall immediately give written notification to the employees covered by the plan. The notification shall state the date on which the notice was filed and the date of termination proposed in the notice. If the employees are represented by a union, the notification shall be delivered to the union representative. If the employees are not represented by a union the notification shall be posted in the location normally used by the employer for posting notices to employees.

Line 16(e). If the trust continues to operate after the termination of a plan, the employer or plan administrator must file financial information, annually, on Form 5500, 5500–C or 5500–K.

Line 19. Complete the balance sheet showing the estimated fair market value of the plan assets and liabilities as of the proposed date of termination. All liabilities, expenses, fees and other costs, for which the plan is responsible and that are unpaid as of the proposed date of termination or that the plan has incurred or will incur after the proposed date of termination should be shown as a liability on the balance sheet and clearly identified. If this form is being submitted as a notice of intent to terminate and the proposed distribution of plan assets includes the distribution of non-cash items, submit a statement as to how the fair market value was determined.

Line 20. Enter the name, address and telephone number of each labor organization, if any, which represents employees who are participants in the plan; and the name and title of the principal officer of that organization.

Line 21(a). When this form is submitted for both IRS and PBGC by a duly authorized representative, it shall be accompanied by a power of attorney, specifically authorizing such representation in this matter or by a written declaration that the representative is currently qualified as an attorney, a certified public accountant or as an enrolled actuary or is currently enrolled to practice before the IRS (include in the declaration either the enrollment number or the expiration date of the enrollment card) and that such person is authorized to represent the principal. When this form is submitted for PBGC only by a duly authorized representative, it shall be accompanied by a notarized power of attorney specifically authorizing such representation in this matter.

Line 21(b). Submit an executed copy of the plan document showing the provisions of the plan five years prior to the proposed date of termination. If the plan has been in effect for less than five years, submit an executed copy of the document establishing the plan.

Line 21(c). Submit an executed copy of each amendment to the plan adopted or effective within the five year period preceding the proposed date of termination.

Line 21(d). Submit an executed copy of each group annuity or group insurance contract providing for management of the assets of the plan, its administration or the payment of benefits under the plan.

Line 21(e). Submit an executed copy of each trust agreement providing for management of the assets of the plan, its administration or the payment of benefits under the plan.

Line 21(f). Submit an executed copy of each collective bargaining agreement which contains provisions relating to the plan.

Line 21(g). Submit copies of letters of determination issued by the Internal Revenue Service relating to the establishment of the plan, amendments to the plan, partial termination of the plan, disqualification of the plan and any subsequent requalification.

Line 21(h). Submit a record of all actions taken to terminate the plan (board of directors resolution, notification to participants, notification to trustees, etc.).

Line 22(c). Some employers may determine that it is in their best interest not to allow a terminating plan to be considered insufficient. Therefore, if prior to the date of plan termination, the employer(s) maintaining the plan makes an irrevocable com-

mitment to contribute the amount necessary to make the plan sufficient, that commitment will be considered a plan asset if PBGC determines that the employer can fulfill its undertaking.

Line 22(d). The plan administrator has the option of whether to seek a notice of sufficiency or to have PBGC place the plan into trusteeship. If a notice of sufficiency is sought, plan assets must be sufficient, when allocated in accordance with section 4044 of ERISA, to satisfy guaranteed benefits under section 4022 of ERISA as of the date plan assets are distributed. If the plan administrator does not demonstrate sufficiency, PBGC will issue a notice of inability to determine sufficiency and proceed to place the plan into trusteeship. PBGC will require the submission of periodic financial statements for the plan between the date of termination and the date the plan is placed into trusteeship.

Line 23. In order for PBGC to determine the sufficiency of plan assets, participant data schedules must be submitted. The information should be furnished in a similar format to that shown below. PBGC will accept copies of workpapers as long as the data submitted is sufficient to show the calculations of the allocated benefit for each participant. If the participant data schedules are not completed at the time this form is to be filed, the form should be filed with a request for an extension of time to complete the schedules. (See General Instruction F regarding an extension of time.) In addition, if a retroactive date of termination is being requested, the plan administrator may wish to postpone the completion of the participant data schedules until the plan administrator and PBGC agree upon the date of termination. In these cases, a request for an extension of time should be submitted with the form.

Line 23(a). This schedule should include all active participants as of the proposed date of termination and all former participants who terminated employment with a deferred vested benefit that represents a liability to the plan. The information should be furnished in the following or similar format.

Columns (a), (b) and (c) should show the name, sex and date of birth of each participant. If under the terms of the plan, the participant is entitled to a form of benefit that provides retirement income to a beneficiary in the case of the death of the participant (including a qualified J&S benefit), the name, sex and date of birth of the beneficiary should be shown in parenthesis on the line under that of the participant. Columns (d), (e) and (f) should show the date employment began for purposes of computing benefits, the date participation in the plan began, and the earlier of the date employment terminated or the date of plan termination. Column (g) should show the amount of credited service as defined in the plan document. Column (h) should show the highest percentage of ownership during the five years prior to the date of plan termination for each substantial owner as defined in Section 4022(b)(6)(A) of ERISA.

Columns (i) through (m) should be used to show the specific data necessary to compute the accrued benefit under the provisions of the plan. The following are examples of the types of data that should be reported:

(i) If the plan is contributory, show the amount of employee contributions with and without interest.

(ii) If compensation is a factor in the benefit formula, show the applicable compensation figure as defined in the plan document. If the benefit formula provides that past service and future service are determined using different compensation figures, one column should show the compensation for past service and one column the compensation for future service.

(iii) If the benefit under the plan is offset by a percentage of the Social Security benefit, show the offset.

(iv) If prior to retirement, the benefit is determined from the cash value of insurance contracts or annuity contracts, show the cash value.

Column (n) should show the accrued monthly benefit, Column (o) the vesting percentage and Column (p) the vested accrued monthly benefit. Column (q) should show the allocated monthly benefit to be provided. If the allocated benefit is less than the vested benefit, provide in a footnote to the schedule an explanation as to how the allocated benefit was determined. Column (r) should show the form of the benefit (straight life annuity, ½ J&S annuity, 10 C&C annuity, lump sum, etc.). Column (s) should show the value of the benefit. If annuities are to be purchased from an insurance carrier, attach a copy of the annuity bid. If an early retirement benefit is to be purchased from PBGC, identify these benefits in a footnote to the schedule. If participants elect a lump sum payment, provide in a footnote to the schedule an explanation as to how the lump sum amount was calculated.

Line 23(b). This schedule should include all retirees and beneficiaries receiving monthy benefits from the plan. Do not include retirees who are receiving their full vested accrued benefit through a paid-up annuity contract issued by an insurance carrier. The schedule should be in the same format as Line 23(a) with the addition of the following two columns:

(t) The date benefits commenced should be shown for each retiree.

(u) The type of benefit should be shown for each retiree (normal, early, late, disability).

Name of plan:

Name of participant (beneficiary)	Sex	Dates				Credited service	Percent of business owned		
		Birth	Employment began	Participation began	Earlier of: 1. Employment terminated 2. Plan terminated				
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)

(k)	(l)	(m)	Accrued monthly benefit (n)	Vesting percent (o)	Vested accrued monthly benefit (p)	Allocated monthly benefit (q)	Form of benefit (r)	Cost or value of benefit (s)

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Tuesday
July 24, 1979

Part III

Department of the Interior

Fish and Wildlife Service

Final Regulations Frameworks for 1979–80 Early Hunting Seasons on Certain Migratory Game Birds in the United States

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Regulations Frameworks for 1979–80 Early Hunting Seasons on Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e. the outer limits for dates and times when shooting may begin and end, and for the number of birds which may be taken and possessed) for early season migratory bird hunting regulations from which States may select season dates and daily bag and possession limits for the 1979–80 season. These seasons may open prior to September 29, 1979, and apply to mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, gallinules, teal (September only), sea ducks (Atlantic Flyway only), a duck season in late September in Iowa; sandhill cranes in North Dakota and South Dakota, and extended falconry seasons.

DATES: Effective on July 23, 1979. Season selections due from the States by July 26, 1979.

ADDRESS: Season selections from States to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, D.C. 20240, telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: On February 15, 1979, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (44 FR 9928) proposals to amend 50 CFR Part 20, with a comment period ending May 16, 1979. That document dealt with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On June 13, 1979, the Service published for public comment in the **Federal Register** (44 FR 34082) the second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental proposals arising from comments received on the initial proposals, or from new information. Comment periods on the second document ended or will end as follows: June 21, 1979, for regulations proposed for Alaska, Puerto Rico, and the Virgin Islands; July 13, 1979, for proposed early season regulations; and August 20, 1979, for late season proposals.

On June 21, 1979, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. The meeting had been announced in the **Federal Register** on February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082). Proposed hunting regulations for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

On June 28, 1979, the Service also published for public comment in the **Federal Register** (44 FR 37857) the third document in the series consisting of proposed, supplemental, and final rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1979–80 season. On June 28, 1979, the Service published in the **Federal Register** (44 FR 37854) the fourth document in the series of proposed and final rulemaking documents dealing specifically with final frameworks for the 1979–80 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1979–80 season.

This final rulemaking is the fifth in the series of proposed and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife conservation agency officials may select season dates and daily bag and possession limits for the 1979–80 season. These seasons may open prior to September 29, 1979, and apply to mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, gallinules, teal (September only), sea ducks (Atlantic Flyway only), ducks in late September in Iowa, sandhill cranes in North Dakota and South Dakota, and extended falconry seasons.

Review of Public Comments and the Service's Response

Various public comments on the proposed early season regulations were received and reviewed during the regulatory development period. The Service replied to public comments on regulations proposed in the **Federal Register** (44 FR 9928) dated February 15, 1979, and in the **Federal Register** (44 FR 34082) dated June 13, 1979. In the June 28, 1979, **Federal Register** (44 FR 37857), the Service responded to recommendations received at the Public Hearing held in Washington, D.C., on June 21, 1979, and to public comments subsequent to publication of the June 13 document.

Seven additional comments on the proposed regulations were received after June 28, 1979. Five of these related to the proposed early hunting season frameworks and are discussed here; the remaining comments concerned late season regulatory proposals. All five comments on early season regulations were submitted by the State conservation agencies, with one agency submitting two letters.

West Virginia expressed support of the proposed regulations. New Jersey supplied information on clapper rail nesting success this summer and recommended that the regulations in effect in 1978 be established this year. Arizona reported that the status of mourning doves was satisfactory, but that call-count surveys and harvest success during the 1978 hunting season indicated that some colonial nesting populations of white-winged doves were below average. The State indicated that some restrictions were contemplated for white-winged doves in portions of Arizona. Details of the restrictions were conveyed to the Service by phone on July 3, 1979. The Service's final frameworks reflect the above information and recommendations.

California submitted two letters, both commenting on the proposed frameworks for band-tailed pigeons. The first questioned the rationale provided by the Service in the **Federal Register** dated June 28, 1979 at 44 FR 37858 for changing the framework to conform with regulations planned by the three Pacific coastal States for 1979.

Response: The Service customarily consults closely with and carefully considers recommendations developed jointly by the three Pacific coastal States regarding annual hunting regulations and management of band-tailed pigeons. It is deemed appropriate that the final frameworks reflect the

results of these consultations and considerations.

The second letter from California requested that consideration be given to permitting a possession limit of 10 band-tailed pigeons rather than 5. Reasons offered for the change include fuel savings for persons traveling long distances to hunt pigeons, and that possession limits for most migratory game birds are twice the daily bag limit.

Response: It is customary for daily bag and possession limits to be the same for band-tailed pigeons in California, Oregon, and Washington. The Service is of the view that increasing the possession limit is inconsistent with this and the recommendation developed cooperatively by the three States for the 1979–80 hunting season.

Comments received are available for public inspection during normal business hours at the Service's office in Room 525 A, Matomic Building, 1717 H Street, NW., Washington, D.C.

Steel Shot Regulations

Non-toxic shot requirements in some areas apply to waterfowl regulations frameworks being finalized here. On July 17, 1979, the Service published in the **Federal Register** (44 FR 41461) final regulations regarding zones in all flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1979. The intended effect of establishing these steel shot regulations is to reduce the number of waterfowl deaths caused by ingesting spent lead pellets.

The regulations appear under 50 CFR, §§ 20.21 and 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

NEPA Consideration

The *Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds* (FES 75–54) was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). An environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplemented the discussion on dove hunting in FES 75–54. Another assessment enlarged upon the FES discussion of shooting hours. Several other environmental assessments or statements addressed species or regulatory subjects peculiar to late season regulations and implementation of the non-toxic shot program. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Consequently, the Service reviewed all migratory bird regulations frameworks being contemplated this year for the early seasons (season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons (including the extra teal option during regular seasons), for sea ducks in certain defined areas of the Atlantic Flyway; for a portion of the regular duck season in Iowa to be taken in late September; for sandhill cranes in designated portions of North Dakota and South Dakota; and special falconry regulations. As a result of intra-Service Section 7 consultation, Acting Director Robert S. Cook concluded in a biological opinion dated July 9, 1979, that the proposed 1979–80 early season migratory bird hunting regulations are not likely to jeopardize the continued existence of the five Endangered species considered, or destroy or adversely modify their Critical Habitat or habitat that might be determined critical in the future. Several actions were recommended as means for furthering the conservation of listed species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemaking was published on February 15, June 13, and June 28, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, shooting hours, and bag limits; to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedures Act, and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701–711), prescribes the final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and special closures, from which State conservation agency selections from State officials, the Service will publish in the **Federal Register** final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect seasons, limits and shooting hours for the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands for the 1979–80 season.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Final Regulations Frameworks for 1979–80 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks which prescribe season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; for a portion of the regular duck season in Iowa to be taken in late September; for

sandhill cranes in designated portions of North Dakota and South Datkota; and special falconry regulations. For the guidance of State conservation agencies, these frameworks are summarized below.

Note.—Any State desiring its season on woodcock, snipe, gallinules sandhill crane, or extended falconry to open in September must make its selection no later than July 26, 1979. Those States which desire these seasons to open after September may make their selection at the time they select their regular waterfowl season.

Those Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selections no later than July 26, 1979; those which desire this season to open after September may make their selections when they select their regular waterfowl seasons.

Mourning Doves

Between September 1, 1979, and January 15, 1980, except as noted, States may select hunting seasons and bag and possession limits as follows:

Eastern Management Unit (All States east of the Mississippi River and Louisiana):

1. Shooting hours [1] between 12 0'clock noon and sunset daily;

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States;

3. Hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, *Alabama, Georgia, Louisiana,* and *Mississippi* may zone their States as follows:

A. Two zones per State with the following descriptions or division lines:

Alabama—The South Zone consists of the area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

Georgia—U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1979.

Central Management Unit (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. *Texas* may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1979, and January 22, 1980.

C. The South Zone may have a season of not more than 60 days between September 20, 1979, and January 22, 1980. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remaining days must be within the September 20, 1979–January 22, 1980, period.

5. In *New Mexico,* daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

Western Management Unit (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively;

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the *Nevada* Counties of *Clark* and *Nye,* and in the *California* Counties of *Imperial, Riverside,* and *San Bernardino,* daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

White-Winged Doves

Arizona, California, Nevada, New Mexico, and *Texas* may select hunting seasons between September 1, 1979, and December 31, 1979, and daily bag and possession limits as stipulated below. Shooting hours between ½ hour before sunrise and sunset may be selected.

Arizona may select a hunting season of not more than 23 consecutive days, to run concurrently with the first period of the split mourning dove season. The daily bag and possession limits may not exceed 10 white-winged doves. On the first 3 days of the season, shooting hours will be only from noon until sunset in the following game management units: 24B, 37A, 37C, 39, 42, that portion of unit 20B south of State Highway 74 and the Carefree-Lake Pleasant Road, unit 21 south of the Maricopa-Yavapai County line, unit 24A west of the Apache Junction-Canyon Lake Road (State Highway 88), and unit 41 east of Maricopa-Yuma County line. For the remainder of the season in these units, shooting hours may be from ½ hour before sunrise until sunset as in the remainder of the State.

California may select a hunting season for the Counties of *Imperial, Riverside,* and *San Bernardino* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Nevada may select a hunting season for the Counties of *Clark* and *Nye* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 5 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

Band-Tailed Pigeons

West Coast States (California, Oregon, and Washington). These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1979, and January 15, 1980. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 band-tailed pigeons.

[1] The hours noted here and elsewhere also apply to hawking (taking by falconry).

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the Counties of *Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama,* and *Trinity;* and

2. The remainder of the State.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah). These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1979. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations. Each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State conservation agency and such permit will be valid in that State only.

New Mexico may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1979, and November 30, 1979, in the North Zone, and October 1, 1979, and November 30, 1979, in the South Zone, hunting seasons not to exceed 20 consecutive days in each zone may be selected by New Mexico.

Rails

(Clapper, King, Sora, and Virginia)

The States included herein may select seasons between September 1, 1979, and January 20, 1980, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days.

Shooting hours between ½ hour before sunrise and sunset in all States for all species may be selected.

Clapper and King Rails

1. In *Rhode Island, Connecticut, New Jersey, Delaware,* and *Maryland,* the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In *Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina,* and *Virginia,* the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia Rails

In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways, and portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway.[2, 3]

No hunting season is prescribed for rails in the remainder of the Pacific Flyway.

Woodcock

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1979, and February 28, 1980, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively, except that in *Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland,* and *Virginia* the season must end by January 31. Shooting hours may be selected between ½ hour before sunrise and sunset. Any State may split its woodcock season without penalty.

New Jersey may select experimental woodcock seasons by north and south zones divided by State Highway 70. Seasons in each zone may not exceed 55 days.

Common Snipe

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1979, and February 28, 1980, not to exceed 107 days, except that in *Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland,* and *Virginia* the season must end no later than January 31. Seasons between September 1, 1979, and February 28, 1980, and not to exceed 93 days, may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado, and New Mexico.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours between ½ hour before sunrise and sunset may be selected. Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season into two segments without penalty. States or portions thereof in the three eastern Flyways may defer selections of snipe seasons at this time and make the selections in August when they select waterfowl seasons. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

Gallinules

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1979, and January 20, 1980, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. Exception: A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, by at least 1 mile of open water from any shore, island, and emergent vegetation in *New Jersey, South Carolina,* and *Georgia;* and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in *Delaware, Maryland, North Carolina,* and *Virginia;* and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be

[2] The Central Flyway is defined as follows: Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

[3] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours between ½ hour before sunrise until sunset daily may be selected.

Any State desiring its sea duck season to open in September must make its selection no later than July 26, 1979. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or special falconry season) exceed 107 days for any geographical area.

September Teal Season

Between September 1 and September 30, 1979, an open season on all species of teal may be selected by *Alabama, Arkansas, Colorado* (Central Flyway portion only), *Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico* (Central Flyway portion only), *Ohio, Oklahoma, Tennessee,* and *Texas* in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 26, 1979.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for any geographical area.

Late September Duck Season in Iowa

Iowa is offered the option of opening a portion of its duck hunting season in September, with the number of days in September to be deducted from the number of days allowed for the regular duck season. All ducks which are legal during the regular duck season may be taken during the September segment of the season. The option, if selected, will be implemented as a trial over a 3-year period and subject to an evaluation of resulting population and harvest data. In 1979, the 5-day early season option will extend from September 22 through September 26, with daily bag and possession limits being the same as those in effect during the 1979 regular duck season. Iowa must advise the Service by July 26, 1979, if it wishes to select this option.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours shall not exceed ½ hour before sunrise to sunset.

4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

5. Each State selecting extended seasons shall report the results of the special falconry season to the Service by March 15, 1980.

6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Exception from Executive Order 12044 and 43 CFR 14—

As discussed in the **Federal Register** dated February 15, 1979 (44 FR 9929), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining slack in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR 14 which is provided for in section 6(b)6 and § 14.3(f), respectively.

Dated: July 18, 1979.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

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federal register

Tuesday
July 24, 1979

Part IV

Department of Health, Education, and Welfare

Public Health Service

National Toxicology Program; Meeting

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

National Toxicology Program; Meeting

The Director of the recently established National Toxicology Program (NTP) announces an open meeting on August 10, 1979, for the purposes of presenting an overview of the FY 1979 Annual Plan, receiving comments and questions on the Annual Plan and the future directions of the NTP, and receiving recommendations for compounds to be tested in the future. Part I of the FY 1979 Annual Plan, describing the NTP's current year efforts and resources, is printed in its entirety immediately following this announcement. Part II of the Plan is a "Review of Current DHEW Research Related to Toxicology" and is available upon request.

Copies of the complete Annual Plan, Parts I and II, as well as copies of the Program's establishment document referred to in the **Federal Register**, November 15, 1978, pp. 53060–53061, can be obtained by calling: Ms. Leslie Gardner at (919) 541–3267 or FTS 629–3267.

The meeting will begin at 10:00 a.m. and will be held in the main auditorium of the HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. Dr. David P. Rall, Director of the National Toxicology Program, and key staff from the participating HEW agencies in the NTP will describe the FY 1979 Annual Plan and the agency resources dedicated to the NTP. Dr. Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, and Chairman of the NTP's Executive Committee will briefly describe the role of the light-member Executive Committee. Executive Committee members will attend as schedules permit.

Key NTP agency staff will be available to receive comments and questions from the public from 11:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m. unless the comments from those in attendance have been received prior to that time.

It is requested that persons planning to attend the August 10, 1979, meeting give advance notice to: Ms. Leslie Gardner (telephone: (919) 541–3267 or FTS 629–3267), National Toxicology Program, P.O. Box 12233, Research Triangle Park, N.C. 27709.

All written comments on the Annual Plan are welcome and will be received and considered through August 17, 1979. All written comments as well as requests for additional information regarding this meeting should be addressed to: Dr. David P. Rall (telephone: (919) 541–3201 or FTS 629–3201), Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, N.C. 27709.

Dated: July 18, 1979.

David P. Rall,

Director, National Toxicology Program.

Department of Health, Education, and Welfare; National Toxicology Program

Annual Plan for Fiscal Year 1979

Table of Contents

Part I

Department of Health, Education, and Welfare; National Toxicology Program

Annual Plan for Fiscal Year 1979

Background

On November 15, 1978, Secretary Califano announced the establishment of the National Toxicology Program. The broad goal of this Program is to strengthen the Department's activities in the testing of chemicals of public health concern as well as in the development and validation of new and better integrated test methods. Specific goals for the Program are:

(1) To broaden toxicological characterization of those chemicals being tested.

(2) To increase the rate of chemical testing, within the limits of available resources.

(3) To develop and begin to validate a series of protocols more appropriate for regulatory needs.

To accomplish these goals the Program was established as a Departmentwide effort to provide needed information to regulatory and research agencies and to strengthen the science base. The Program is at present comprised of the relevant activities of the Food and Drug Administration (FDA), the National Cancer Institute (NCI), the Center for Disease Control/National Institute for Occupational Safety and Health (CDC/NIOSH), and the National Institute of Environmental Health Sciences (NIEHS). It will be planned, programmed, and carried out as a coordinated whole under the direction of Dr. David P. Rall who will continue to serve as Director, National Institute of Environmental Health Sciences and for the purpose of this Program reports to the Assistant Secretary for Health. The resources available to the Program in FY 79 are dedicated by components of the FDA, NCI, NIEHS, and NIOSH and total to $41,000,000.

Central to the effective planning, coordination and operation of the National Toxicology Program is the development and approval of an annual plan.

This plan is to include:

A review of current DHEW research as it relates to toxicology.

Specification of the Program activities and resources to be managed by the Program Director:

Current toxicology testing capacity (i.e. Dollars, positions, and space) and how that capacity is being utilized.

Amount of test capacity which may be available in the coming year.

Plans for test development and validation of test systems which take into account research opportunities and needs of the field.

The compounds to be tested, the test procedures to be followed, and a schedule for the tests.

The regulatory and scientific opportunities which were considered in the development of the plan.

Recommendations of the Program Director as to the resources needed for the Department's toxicology program capacity. (This section will first be

included in the second plan, to be completed by September 1, 1979.)

Introduction

The National Toxicology Program will, in its first year of operation, identify the unifying themes that exist in the current toxicology programs of the four NTP research agencies. The first year's operation, will bring about several adjustments that move toward fulfillment of the broad Program objectives. In the four months since establishment of the Program, it has become clear that several of the toxicological programs which were at various stages of development in the individual agencies were designed to achieve closely similar goals. Integrating these important activities will provide added impetus to the Program's goals during the first year of operation. In addition, several new initiatives were developed and will be implemented because of opportunities provided by the existence of the NTP. These new and revitalized initiatives, along with the ongoing toxicological activities of the four NTP agencies, are described in the first Annual Plan. Because of the limited time available to prepare the first Annual Plan, it was possible to incorporate only brief descriptions of planned activities. A more detailed presentation of NTP activities will be contained in the second Annual Plan, to be developed for September 1, 1979.

One of the major objectives of the NTP is to create stronger links between research devoted to the development and validation of new or improved toxicological methods and the needs of the regulatory community for such methods. There is the additional objective of ensuring efficient and proper toxicological evaluation of substances that may pose a threat to the public health and which, therefore, may require regulation. Meetings of the Executive Committee and Committee staff have led to the identification and prioritization of compounds to be subjected to toxicological evaluation and to the specification of several areas of research in methods development and validation that are considered of central importance to both the research and the regulatory agencies. Thus, the major objectives of the NTP will begin to be realized immediately.

In addition, during the first year several management functions common to many Program activities, and heretofore carried out somewhat independently by the member agencies, will be centralized, thereby increasing the efficiency of operating HEW's toxicology programs. Among the common functions to be centralized are: chemical intelligence; data management and analysis; laboratory animal production and quality control; chemical repository; and technical information and reports.

A major initiative will be the creation of a management function that insures that the quality of the Program's initiatives are consistent with good laboratory practices.

The toxicology activities of the NTP agencies are moving in directions generally consistent with Program objectives. The goal of the first year is to isolate activities that can be made to move quickly toward Program objectives. During this process dialogue between research and regulatory scientists will increase and this is critical to the Program's success because it is not always readily apparent if and how specific forms of research will serve a regulatory need. Only through such a dialogue will new ideas for research develop. And it is only through the development of such ideas that new program initiatives, and the resource shifts they will require, can be put into place.

The Director has established an internal Steering Committee to advise him on direct Program operation and prioritization. It is composed of the Deputy Director, NTP (Dr. J. Moore), and the science program leaders of the contributing agencies: Acting Director, NCTR (Dr. T. Cairns); Acting Scientific Director, NIEHS (Dr. D. Hoel); Associate Director, Carcinogenesis Testing Program, NCI (Dr. R. Griesemer); and Director, Division of Biomedical and Behavioral Science, NIOSH (Dr. E. Harris).

Chemical Selection and Intelligence

The development of lists of chemicals to be tested is a most important task if the resources available to the NTP are to be effectively utilized. Each agency represented on the Executive Committee was asked to propose testing initiatives and to participate in the ordering of chemicals. The principles for selection of these compounds included such factors as estimated or known extent and intensity of human exposure, estimated or known severity of toxicological effects, and the scientific needs to compare testing methodologies and to study structure activity relationships. The NTP is concerned about its appropriate role in Government sponsored testing as it relates to the responsibility of the private sector to bear the burden of chemical testing as mandated by specific Federal laws or statutes. The NTP is in the process of developing a set of principles for selecting chemicals that will incorporate the previously listed factors and concerns.

The selection of a chemical does not *a priori* commit it to testing by NTP. It does commit the NTP to ascertain the specific toxicologic and regulatory concerns, evaluate the adequacy of existing data or current efforts in Government, academic, or private laboratories, and then propose and conduct specific test(s) that are needed.

A single focus for this activity has been established to insure the future provision of a standard base of information on each chemical nominated. This standard base of information will include chemical name, Chemical Abstract Series (CAS) No., commercial formulations, use(s), human exposure, known or suspected health effects, existence, and adequacy, of relevant toxicologic data and specific areas of needed toxicologic research. Once a chemical has been selected for testing, this group will provide the pertinent science information for proper design of the test protocol. Existing data resources will be utilized for these activities.

Data Management and Analysis

The National Toxicology Program needs are: 1) data acquisition, storage, and retrieval, 2) data reduction and analysis, and 3) management tracking and control.

Data Acquisition, Storage and Retrieval. The most complex and highest priority need is data management of lifetime bioassays. Current systems lack an automated data input system and quality control features at the testing laboratory. The NTP has selected the developing TDMS (Toxicology Data Management System), a modular system, for continued prototype development and on-line installation at three laboratory facilities in early 1980 with additional installations also projected later in the year.

Data management in the area of mutagenesis is the next highest priority because of the potentially large quantities of data to be generated. Existing and developing systems will be used.

Management Information. High priority is given to early development of a simple system that should provide on-line information on chemicals selected for testing, the nature of the test(s) and test status.

Data Analysis. Appropriate statistical methodologies for data analysis of microbial mutagenesis and teratology

assays are to be developed in FY 79. The statistical methodologies used for carcinogenicity data will be reviewed and will require considerable methodologic research. Methodologies for statistical analyses of other toxicology data will be reviewed and revised, as necessary, as routine testing capability is initiated.

Laboratory Animal Production and Quality Control

The $B_6C_3F_1$ mouse and Fischer 344 rat will continue to the principal test species. Animal production resources will continue to be developed and maintained to provide animals to chemical testing laboratories. Basic standards for husbandry and care as they specifically relate to toxicology testing are also being developed. A standard controlled, open formula test diet is to be selected and incorporated into the test protocols.

Although the current NTP strains provide meaningful toxicology and carinogencity data, the test animal is such a vital selection in experimental design that an evaluation of the continued utility of these or other rat and mice strains is planned. The $B_6C_3F_1$ mouse and Fischer 344 rat are genetically uniform (isogenic) strains which is a desirable trait for toxicity testing. It has been proposed that the use of several isogenic strains in a bioassay would provide a better extrapolation base than the use of a single strain. The statistical power of data developed in several isogenic strains appears to be equivalent to, and may exceed, current practices of using single strains. A course of study to develop and validate a series of experimental designs using multiple isogenic strains is planned.

Chemical Repository

A central repository for chemicals tested by the NTP will be established from which the procurement, analyses, distribution, reference archiving, and quality assurance of chemicals during test use will be directed. The operation of a variety of existing capabilities will be integrated for the performance of this activity.

Technical Information and Reports

The Annual Plan describes research dealing with the testing of more than 500 chemicals, with many being utilized in a variety of tests. The chemical selection process should lead to the Program testing chemicals or validating methods that are of significant scientific and regulatory interest; therefore, these results need to be promptly communicated. In developing a mechanism for the orderly processing and announcement of NTP research, the use of established "online" computer systems as an adjunct to published documents is being considered as is the feasibility of using the capabilities of the Toxicology Information Program, and the National Library of Medicine.

A high priority is to establish a process for scientific review of the adequacy of the test data developed by the NTP.

The NTP will continue to develop the Environmental Mutagen Information Center (EMIC) and the Environmental Teratology Information Center (ETIC). The development of online extracts of the ETIC entries is scheduled to commence in late 79. Priority of extract preparation will be given to those chemicals of interest to the NTP.

Teratology

Chemical teratology testing traditionally has focused on detecting anatomical malformations that occur during *in utero* development through the systematic examination of the fetus (by the naked eye or low magnification) for organ, limb, or skeletal abnormalities. Analysis and interpretation attempts to discriminate between effects caused by maternal toxicity, fetal toxicity, or death. In recent years experiments have clearly identified that functional abnormalities without gross malformations can result from chemical exposure during development; behavioral abnormalities are a principal example. Several foreign countries have recently imposed general requirements for behavioral teratology; the Toxic Substances Control Act may also mandate such testing. Therefore, it is imperative that the relevance and validity of behavioral teratology test procedures be established. The NTP will coordinate and conduct a collaborative validation of test procedures.

It is proposed that 4–6 test methods, which appear to have the greatest potential utility, will be utilized in six laboratories using standard chemicals. Recommendations concerning the incorporation of behavioral teratology methods into reproduction and teratology testing guidelines should be possible, based on the results of these studies. This project will encompass 2–3 years.

Current methods do provide meaningful data about the teratogenic potential of chemicals. To insure that all scientific data gathered during these evaluations are most effectively utilized, a selected analysis of chemicals, for which there is definitive human and animal teratology information, is being performed.

In addition, existing laboratory data bases will be examined to determine the range of dose parameters that indicate linearity of response and permit the development or identification of appropriate biomathematical procedures for low dose risk estimation.

A systematic histopathologic examination of fetuses will be conducted and compared with the results obtained using traditional methods as part of the teratology testing of 8–10 coded chemicals. Chemicals selected for teratologic evaluation are listed in Table 1; additional nominations are listed in Table 2.

Mutagenesis

Mutagenicity assays should identify structural or functional DNA disturbances in germ or somatic cells. The former is of interest for predicting potential undesirable effects on fertility, the developing conceptus, or in generations subsequent to that which received chemical exposure. Somatic mutation may predict physiologic alterations in the exposed person and the potential for cancer.

A major goal is to establish a battery or matrix of procedures which, when used as a prescreen, can aid in establishing priorities for indepth animal studies.

A systematic evaluation of the utility and predictive value of various *in vitro* test systems will continue. Specifically, these efforts are directed toward:

1) Development, definition and standardization of methods for routine testing.

2) Determination of the intralaboratory and interlaboratory reproducibility of defined protocols.

3) Evaluation of tests using coded chemicals and representing different chemical classes of known mutagenic activity.

A *Salmonella*/microsome plate assay has been standardized and found to yield reproducible results within and between several laboratories. This protocol uses *Salmonella typhimurium* strains TA 1535, 1537, 1538, 98 and 100 with and without metabolic activation. The liver S–9 preparations are prepared from both uninduced and Arochlor 1254 induced Fischer 344 rats, $B_6C_3F_1$ mice or Syrian hamsters. A series of 45 chemicals (Table 3) which have been tested by lifetime bioassays in Fischer 344 rats and $B_6C_3F_1$ mice, and for which stable lots of the original chemical are available, are to be assayed. The purpose of the testing is to determine whether the same type of species

variation observed in the animal bioassays will be detected in the mutagenicity assays. Each chemical will be tested under code in four laboratories which will further establish the interlaboratory reproducibility.

Other assays being developed or validated include *Escherichia coli* WP2 uva, pol A+ and pol A and the mammalian systems L5178Y mouse lymphoma [TK+/locus] and ARL6 rat liver.

Using the validated standardized assays, an *in vitro* testing capability has been established using *Salmonella typhimurium* strains TA 1535, 98, 1537, and 100 (with and without metabolic activation). A total of 180 chemicals will be tested in the remainder of FY 79. The planned capacity for testing in FY 80 is 300. The chemicals selected for assay are listed in Table 4. Chemicals selected for extensive toxicologic characterization, including carcinogenicity (Table 9), will be priority additions to this list.

An *in vitro* mammalian cytogenetics capability (chromosome aberration including sister chromatid exchange) will be established in FY 79. System validation will be required and it is planned to test 45 chemicals in FY 80 assuming successful validation. The goal is to expand this capability so that it can become an integral part of the initial screen along with the *Salmonella* assays.

The determination of mutagenicity can range from a set of tests which merely alert as to mutagenic potential to more extensive tests which firmly establish the presence (or lack) of mutagenicity and specify the specific type of genetic lesion produced. When large numbers of chemicals are to be tested, it is not feasible to employ an entire battery of tests simultaneously; thus, it is planned to apply a sequential array of tests. The current initial screens are the *S. typhimurium* assays previously described and the *in vitro* cytogenetic assay if validated. Chemicals that are mutagenic in these assays will be subject to further testing. (Selected chemicals that are negative in the initial screen may receive further testing, taking into account such factors as known biologic activity of related compounds and level of human exposure.) The second sequence of testing will utilize *Drosophila spp.* which possesses some inherent chemical metabolism capability and can provide more precise information on the types of mutations induced, the time course of induction, and, in addition, demonstrate heritability of the induced mutation. Regular test capability in *Drosophila* will be established in FY 79 with an aim being the assay of 20 chemicals per year commencing in FY 80.

Eighteen chemicals (Table 5) are to be tested in rats for *in vivo* mutagenic activity using a dominant lethal assay, bone marrow karyotyping or sperm abnormality evaluation. Selective use of *Drosophila* recessive lethal and unscheduled DNA repair in human cell lines is also planned. Some of these tests also have utility for assessing reproductive function.

The NTP has assumed support and participation in an international collaborative study, under the auspices of the International Association of Environmental Mutagen Societies, with the objective of systematically evaluating a range of mutagenicity assay systems for their ability to predict chemical carcinogenicity. The responses of approximately 25 assay systems will be determined for 42 coded reference carcinogens and noncarcinogens. The chemicals to be tested and the assay systems to be employed are listed in Table 6 and 7, respectively. All assays are to be completed in FY 79 with decoding and combined analysis scheduled for the first quarter of FY 80.

The assessment of mutagenic risk to future generations with our current state of knowledge must utilize whole mammal experiments on heritable damage. There are examples of noncorrelation between microbial tests and of heritable effect determinations in the mouse. An NTP goal is to develop a logic for the proper use and utility of *in vivo* mammalian genetic tests. The heritable translocation assay will be further evaluated in this regard. Other methods that need evaluation or development involve the role of repair in mammalian mutation induction and the role of the female in determining heritable mutagenic risk.

Carcinogenesis

A lifetime bioassay in rodents is the current procedure utilized to determine carcinogenic potential of a chemical. The NTP does not propose alternative methods but acknowledges a need in the longer term, to develop or validate less expensive and more rapid methods that may in some instances supplant the need for lifetime bioassays.

Mammalian cell transformations are potential short-term assays that indicate carcinogenic potential of a chemical. Transformation assays being evaluated include BALB/c 3T3, Fischer Rat Embryo (RLV infected), Hamster embryo, and C3H 10T½. In this effort the first 15 chemicals listed in Table 3 will be tested for transforming potential in the hamster embryo clonal assays and in the BALB/c 3T3 focus assay.

The results of *Salmonella* assays will be considered in prioritizing the order in which a chemical may be tested in lifetime bioassays. Other assays, once validated, that will augment the microbial assays, include cell transformation, or other *in vitro* and *in vivo* assays described in the mutagenesis segment of the Annual Plan.

A substantial body of literature exists related to short term *in vivo* carcinogenicity testing, but no model is sufficiently validatd to be applied to the routine testing of chemicals. One model, the mouse lung adenoma system, is sufficiently developed to be selected for indepth validation. During FY 79 a validation protocol will be developed for contract award and initiation. Seventy-five to 100 chemicals will be selected, giving preference to those chemicals for which adequate lifetime bioassay data exist, or are in progress, with selections balanced to insure a broad representation of chemical classes. The results of this study, along with *in vitro* microbial mutagenesis data and findings of lifetime rodent bioassays, will be compared in evaluation of the mouse lung adenoma system.

Rat liver assay systems will also be reviewed in order to determine what specific areas of methods development need to be pursued.

A literature search and analysis will permit comparison of the results of animal bioassays and mutagenesis tests with results of mouse lung, skin painting and subcutaneous assays. Particular attention will be given to: a) the concordance of *in vitro* fibroblast transformation and subcutaneous sarcoma formation, and b) to skin tumor production in Syncar versus non-Syncar mice. The results of this analysis will be considered in developing NTP initiatives for FY 80.

There are diferent viewpoints as to what constitutes the best design of lifetime bioassays. Areas of differing opinion include choice of species and strain, age at exposure, route of exposure, number of doses tested, dose levels, and of methods used in analysis. An NTP priority is to review and possibly revise the current lifetime bioassay design consistent with the projected use of the bioassay results.

Carcinogenicity testing traditionally begins with young adult animals (typically six-week old rodents). Human chemical exposures may include the period of *in utero* development and infancy as well as continued lifetime

exposure. These exposures occur through exposure of pregnant workers, use of drugs, and long-term accumulation and persistence of certain chemicals in the mother's body with secretion in milk. The adequacy of lifetime bioassay methods versus methods that also include prenatal and neonatal exposures is being evaluated. Four chemicals will be tested; polychlorinated biphenyl (Arochlor 1254) and phenytoin have been selected with 2 additional chemcials to be selected and testing started in FY 79.

The carcinogenic potential of chemical combinations has been described, the conversion of heterocyclic secondary amines to nitrosamines in the presence of NO_2 (N_2O_4) being a recent example. The ubiquity of NO_2 and the widespread distribution of heterocyclic amines prompt the hyothesis that some neoplastic diseases may be a consequence of *in vivo* interaction with these chemicals. A test of the hypothesis is planned in an animal bioassay using NO_2 exposure by inhalation and heterocyclic amine (2,6 dimethylmorpholine) exposure by the oral route.

Lifetime inhalation bioassays for carcinogenicity usually involve a duration of exposure that is arbitrarily determined. The specialized facilities required for inhalation studies are expensive and commit limited technical manpower and resources for extended periods of time. A study with rats, mice and hamsters is in progress that uses a design that varies the age of animals exposed and the duration of exposure to vinyl chloride, a known carcinogen. The objective of the study is to provide data that permit a species comparsion of tumor response and an analysis of the exposure regimens that provide a predicted carcinogenic response. The data may indicate that a period of exposure of less duration than is currently employed will provide a meaningful bioassay resut. These studies are projected for completion in FY 80.

The National Toxicology Program assumed responsibility for 147 chemicals being tested for carcinogenic potential in lifetime rodent bioassays (Table 8). Draft reports on 13 of these chemicals are expected to be completed in FY 79 and formally issued in early FY 80. An additional 106 chemicals have been selected for extensive toxicologic and carcinogenic evaluation (Table 9). Resources will permit testing to commence on 60 of these chemicals in FY 79 with testing of the remaining chemicals scheduled for FY 80. There are 104 chemicals (Table 10) that have been nominated for testing which will be evaluated for selection according to the procedures described on page 3 of the Annual Plan. Chemical nomination and selection is a continual process.

Toxicology

Chemicals selected for extensive toxicologic characterization (Table 9) will usually be evaluated in a series of acute and subacute experiments followed by chronic (lifetime) experiments when *in vivo* carcinogenicity data is desired. In the former experiments a core of traditional toxicology data will be recorded with additional screening efforts incorporated in such areas as neurobehavior, fertility and reproduction, immunotoxicology, renal toxicity and respiratory function as indicated by specific health concerns, toxicities associated with related chemicals, etc. When extensive toxicologic efforts are conducted, dose related data on absorption, disposition and metabolism will be collected.

A second initiative is to develop, validate and implement procedures for characterization of specific toxic parameters such as neurobehavior, pulmonary function, immunobiology and fertility and reproduction. Descriptive narrations of the major NTP toxicology initiatives are decribed below.

Behavioral Toxicology. Laboratories within the National Toxicology Program are actively engaged in the development of new methods and in the routine use of existing methods for testing the behavioral and neurological effects of a variety of toxic agents. However, the capacity for evaluating compounds is limited. The number of compounds can be substantially increased only through the contract mechanism. A battery of screening tests which will reflect the entire range of potential behavioral and neurologic tests and are sensitive and predictive for humans is needed. A basic test battery is currently being validated; in the interim, this test battery is being selectively used for chemical screening.

Specific experiments that characterize the nature of the effect and provide dose response data are planned for 16 select chemicals for which there is evidence of behavioral or neurological effects. These chemical are listed in Table 11.

Immunology. A number of chemicals have been found to cause immuno-suppression, with cell mediated immunity and the developing immune systems at particular risk. Several conferences have recently addressed this topic, and, whereas there is general agreement on the immune parameters to be assessed, there is considerable difference of opinion regarding the most appropriate techniques to be employed. The NTP will begin the development and validation of an immunology test battery as well as continue studies that estabish the role of immune assessment in toxicologic characterization.

Clinical Chemistry. A variety of tests have been utilized as indicators of organ function. The tests, in many instances, lack the sensitivity to detect deleterious effects at levels below those which are detectable through gross and histopathologic examination. A program will begin to identify more sensitive methods for detection of injury and subsequently aim at the development of inexpensive, accurate and automated methods that can be incorporated into routine testing procedures. Tests that assess hepatic and renal function will be emphasized initially.

Chemical Distribition and Metabolism. Specific isomers of the complex polychlorinated biphenyl mixture have been the subject of pharmacokinetic studies in several species (rat, dog, and Rhesus money). Results of current studies indicate a marked difference in the ability of the monkey to metabolize or excrete some of the more toxic isomers as compared to the rodent. These studies will be extended and will attempt to provide data that may suggest the appropriate laboratory species from which to extrapolate dose response data in assessing human risk.

Toxicology studies with chlorinated dibenzofurans indicate species variability as to the dose that causes toxic effects. Basic distribution and metabolism studies with $_{14}C$ labeled 2,3,7,8 TCDF will seek to establish if species difference is due to variation in chemical distribution, metabolism or excretion. These data should provide a logical means for selecting appropriate species for possible teratology and carcinogenicity studies.

Recent studies indicate that some benzidine derived dyes are metabolized with the formation of benzidine as a metabolite. Benzidine is a carcinogen. Additional benzidine derived dyes will be studied to determine if the formation of benzidine as a metabolite is typical of several classes of benzidine derived dyes.

Pulmonary and Cardiovascular Toxicity. The NTP has significant capacity for inhalation research and testing. A majority of the work that assesses cardiovascular and pulmonary toxicity is performed in NTP laboratories, whereas the inhalation exposures to assess carcinogenic

potential are performed by contract. The NTP recognizes the need to expand toxicologic assessment of inhaled chemicals to other than NTP laboratories. Methods development and validation is planned.

Chronic inhalation studies on the cardiovascular effects of methyl bromide will continue. Acute or chronic studies on pulmonary response are planned for four epoxides: butylene oxide, ethylene oxide, propylene oxide, and styrene oxide.

Lung fibrogenesis as a consequence of fibers and dusts is a major health concern. A variety of methods are being utilized in an attempt to assess fibrogenic effects including histophathology, fibroblastic activity *in vitro*, macrophage interaction, and bilogical availability using the isolated perfused lung. Chemicals that are being utilized in these studies include:

aluminum salts and organoaluminum
asbestos
copper compounds
fibrous glass
lead oxide
lead sulfide
silica
2 ethoxy ethanol
2 nitropropane

Studies on the dose related pathogenesis and persistence of noncarcinogenic effects of chlordecone in rats are in progress. Toxic parameters being studied include reproduction, fertility, neurobehavior, immunology, hepatotoxicity and blood clotting.

Table 1.—*Chemicals Selected for Teratology Studies*

Chemical	CAS No.
Caffeine	58-08-2
Dimethylaniline	87-62-7
Ethyl Benzene	100414
Ethylene oxide	75218
Ethoxy ethanol*	110-80-5
Formaldehyde	50-00-0
Lead monoxide**	
Pentachloroanisole	1825-21-4
Toluene	108883
Xylenes:	
O-Xylene	94576
M-Xylene	108383
P-xylene	106423

*Post natal behavioral and nervous system abnormalities will also be evaluated.

**Post natal renal, cardiovascular, metabolic and hematopoietic systems will be evaluated through 10 months of age.

Table 2.—*Chemicals Nominated for Teratology Studies or Screening for Teratogenic Effect*

Chemical	CAS No.
Bisphenol A	80-05-7
Butyl nitrite	
Capsaicin	404-86-4
Cinnamaldehyde	104-55-2
Chlorinated dibenzofurans	
Copper compound(s)	
P-dichlorobenzene	106-46-7

Table 2.—*Chemicals Nominated for Teratology Studies or Screening for Teratogenic Effect*—Continued

Chemical	CAS No.
Gentian violet (hexamethyl-p-rosaniline)	548-62-9
Mercaptobenzothiazole	149-30-4
Oil of nutmeg	
Sulfamethazine	57-68-1
Tocopherol	1406-66-2

Table 3.—*Chemicals Tested in Salmonella/Microsome Plate Assays for Comparison With Fischer 344 Rat and $B_6C_3F_1$ Mouse Lifetime Bioassays*

4-Amino-2-nitrophenol—119-34-6
2-Amino-5-nitrothiazole—121-66-4
p-Chloroaniline
3-Chloromethyl pyridine hydrochloride—6959-48-4
N,N'-Dicyclohexylthiourea—1212-29-9
4,4'-bis (Diemthylamino) benzophenone
Dyrene(anilazine)—101-05-3
Ethylene dibromide—106-93-4
Lithocholic acid—434-13-9
4,4'-Methylenebis(n,N'-dimethylaniline)—101-61-1
Nitrilotriacetic acid trisodium salt monohydrate
4-Nitro-o-phenylenediamine—99-56-9
2-Nitro-p-phenylenediamine—5307-14-2
3-Nitropropionic acid—504-88-1
p-Phenylenediamine—106-50-3
Acetylsalicylic acid—50-78-2
Aldicarb—116-06-3
Aniline hydrochloride—142-04-1
o-Anisidine hydrochloride—134-29-0
APD—8003-03-0
1,2,3-Benzotriazole—95-14-7
Caffeine—58-08-2
Cinnamyl anthranilate—87-29-6
tris(2,3-Dibromopropyl)phosphate—126-72-7
1,3-Dichloro-5,5-dimethylhydantoin—118-52-5
Fluometuron—2164-17-2
1,5-Naphthalenediamine—2243-62-1
Proflavin hydrochloride—952-23-8
Reserpine—50-55-5
Styrene—96-09-3
4'-Chloroacetyl(acetanilide)—140-49-8
Coumaphos—56-72-4
m-Cresidine—102-50-1
p-Cresidine—120-71-8
Diazinon—333-41-5
2,4-Dimethoxyaniline—54150-69-5
3,3'-Dimethoxybenzidine-4,4'-diisocyanate
ethylenediaminetetra acetic acid, sodium salt—60-00-4
3-Methyl-1-phenyl-2-pyrazotin-5-one
Nitrofen—1836-75-5
5-Nitro-o-toluidine—99-55-8
p-Quinone dioxime—105-11-3
Succinic acid 2,2-dimethylhydrazide—1596-84-5
2,5-Toluenediamine sulfate—6369-59-1
Triphenyltin—76-87-6

Table 4.—*Alphabetical List of Chemicals Selected for Salmonella Mutagenicity Assay*

Acetamide—60-35-5
Acetin—26446-35-5
N-Acetyl-o-toluidine—120-6-1
Acrolein—107-02-8
3-Amino-α·α·α-trifluorotoluene—98-16-8
o-Aminophenol—95-55-6
Amyl nitrite—463-04-7
Aniline—62-53-3
o-Anisidine—90-04-0
p-Anisidine—104-94-9
Anthracene—120-12-7
Arochlor 1254—11097-69-1
l-Aziridineethanol—
Azobenzene—103-33-3
Azodicarbonamide—123-77-3
Benzaldehyde—100-52-7
Benzofuran—271-89-6
p-Benzoquinone dioxime—105-11-3
Benzyl salicylate—118-58-1
Beta-methylumbelliferone—90-33-5
Beta-picoline—108-99-6
Biphenyl—92-52-4
2-Biphenylamine—90-41-5
4-Biphenylamine—92-67-1
2,4'-Biphenylamine—
2,4'-Biphenyldiamine—492-17-1
Bis(chlorendo)furan
Bisphenol—80-05-7
Boric acid—10043-35-3
Bromobenzene—108-86-1
Bromocyclohexanol
Bromoform—75-25-2
2-Butanone peroxide—1338-23-4
n-Butyl para-aminobenzoate—94-25-7
Cacodylic acid—75-60-5
Carbon disulfide—75-15-0
Catechol—120-80-9
Chloral hydrate—302-17-0
Chlorendic acid—115-28-6
2-Chloro-1,3-butadiene—126-99-8
4-Chloro-α·α·α-trifluorotoluene—98-56-6
4-Chloro-3,5-dinitro-α·α·α-trifluorotoluene—393-75-9
4-Chloro-3-nitro-α·α·α-trifluorotoluene
Chlorobenzene—108-90-7
4-Chloronitrobenzene—100-00-5
2-Chloronitrobenzene—88-73-3
m-Chlorophenol—108-43-0
o-Chlorophenol—95-57-8
p-Chlorophenol—106-48-9
Cinnamaldehyde—104-55-2
Copper acetoarsenite—12002-03-8
m-Cresol—108-39-4
o-Cresol—95-48-7
p-Cresol—106-44-5
Crotonaldehyde—123-73-9
Cyanuric acid—108-80-5
Cyclohexanol—108-93-0
Cyclohexanone—108-94-1
Diacetone acrylamide—2873-97-4
4,4'-Diamino-2,2'-stilbenedisulfonic acid
2,4-Diaminophenol hydrochloride—137-09-7
Debenzofuran—132-64-9
Diborane—19287-45-7
2,3-Dibromo-1-propanol—96-13-9
Di-n-butylamine—111-92-2
1,3-Dichlorobenzene—541-73-1
1,2-Dichlorobenzene—95-50-1
1,4-Dichlorobenzene—106-46-7
cis-Dichlorodiamine platinum—15663-27-1
Dichlorodiphenylethylene—72-55-9
trans-1,2-Diochlorethylene—540-59-0
cis & trans-1,2,3-Dichloroethylene—156-59-2
1,1-Dichloroethylene—75-35-4
3,4-Dichloronitrobenzene—99-54-7
2,3-Dichloronitrobenzene—3209-22-1
2,3-Dichlorophenol—576-24-9
2,5-Dichlorophenol—38048-58-7
2,6-Dichlorophenol—87-65-0

3,4-Dichlorophenol—95–77–2
3,5-Dichlorophenol—591–35–5
Diethanolamine—111–42–2
7-Diethylamino-4-methylcoumarin—91–44–1
Diethyl carbonate—105–58–8
Diethyldichlorosilane—1719–53–5
Diethyleneglycoldimethylether (diglyme)—111–96–6
Diethyl ethylphosphonate—78–38–6
Di(2-ethylhexyl) phthalate—117–81–7
5,7-Dihydroxy-4-methylcoumarin—2107–76–8
Diisobutylketone—108–83–8
Dimethoxane—828–00–2
1,2-Demthoxybenzene—91–16–7
Dimethylamine—124–40–3
Dimethyl cyanamide—1467–79–4
N,N-Dimethylformamide—68–12–2
2,4-Dimethylphenol—105–67–9
N,N-Dimethylurea—1320–50–9
trans-1,2-Dichloroethylene—156–60–5
cis & trans 1,2-Dichloroethylene—540–59–0
4,6-Dinitro-2-aminophenol—96–91–3
2,4-Dinitrotoluene—121–14–2
Dioctyladipate—123–79–5
1,4-Dioxane—123–91–1
Diphenyl oxide (diphenyl ether)—101–84–8
1,2-Epoxypropane—75–56–9
Ethyl bromide—74–96–4
Ethyl chloride—75–00–3
Ethylene glycol—107–21–1
Ethylenediamine—107–15–3
2-ethylhexyl diphenyl phosphate—1241–94–7
Eugenol—97–53–0
Ferrocene—102–54–5
1-Fluoro-2,4-dinitrobenzene (FDNB)—70–34–8
2-Fluorobenzoyl chloride—393–52–2
Formaldehyde—50–00–0
Furfural—98–01–1
Gallic acid—149–91–7
Gluteraldehyde—111–30–8
Hemotoxylin
Hexabromobenzene—87–82–1
Hexabromobiphenyl—36355–01–8
Hexachlorobenzene—118–74–1
Hexachlorocyclopentadiene dimer—2385–85–5
Hexachloroethane—67–72–1
Hexachlorophene—70–30–4
Hexaclorobutadien—87–68–3
Hexamethly-p-rosaniline-ci—548–62–9
Hydrazine sulfate—10034–93–2
Hydrazinobenzene—100–63–0
Hydroquinone—123–31–9
Hydroquinone dimethyl ether—150–78–7
Hydroquinone monomethyl ether—150–76–5
4-Hydroxyacetanilide—103–90–2
Ligninsulfonic acid sodium salt—8062–15–5
Lithium chloride—7447–41–8
Maleic anhydride—108–31–6
Maleic hydrazide—123–33–1
Melamine—108–78–1
Metchloronitrobenzene—121–73–3
Methacrylic acid methylester—80–62–6
Methylhydrazine—60–34–4
N-Methyl-para-aminophenol—150–75–4
3-Methyl-3-phenylglycidic acid ethyl ester—77–33–8
Methyl salicylate—119–36–8
Ortho-methoxyphenol—90–05–1
8-Methoxyphenol—298–81–7
8-Methoxy psoralin
Morpholine—110–91–8
Neophytadiene—504–96–1
Nickelocene—1271–28–9
1-Nitronaphthalene—86–57–7
p-Nitrophenol—100–02–7
2-Nitropropane—79–46–9
N-Nitrosodiethanolamine—1116–54–7
2-Nitro-α,α,α-trifluorotoluene
3-nitro-α,α,α-trifluorotoluene
Oxalic acid—144–62–7
Paraquat—4685–14–7
Pentachloroaniline—527–20–8
Pentachloroanisole—1825–21–4
Pentachlorobenzene—608–93–5
Pentachloronaphthalene—1321–64–8
Pentachloronitrobenzene—82–68–8
Pentachlorophenol—87–86–5
Pentachlorophenyl methyl ether—1825–21–4
Pentachlorophenyl methyl sulfide—1825–19–0
Phenyl salicylate—118–55–8
Phenytoin—57–41–0
Phorbol ester—17673–25–5
1-(2H)-Phthalazinone—119–39–1
Phthalic anhydride—85–44–9
Picric acid—88–89–1
Piperazine—110–85–0
Piperonal—120–57–0
Polybrominated biphenyl—
Propylene Dichloride—78–87–5
1,2-Propylene glycol—57–55–6
Pyridine—110–86–1
Quinoline—91–22–5
p-Quinone—106–51–4
Resorcinol—108–46–3
Rhodanine (Ammonium salt)—1762–95–4
Ricinoleic acid—141–22–0
Semicarbazide hydrochloride—563–41–7
Sodium aluminosilicate—1344–00–9
Sodium dehydroacetate-4418–26–2
Sodium dichloroisocyanurate—13023–28–4, 2893–78–9
Sodium fluoride—7681–49–4
cis-Stilbene—645–49–8
trans-Stilbene—645–49–8
Terephthalic acid—100–21–0
Tert-butyl hydroperoxide—110–05–4
1,2,3,5-Tetrachlorobenzene—634–90–2
1,2,3,4-Tetrachlorobenzene—634–66–2
1,2,4,5-Tetrachlorobenzene—95–94–3
Tetrachloroethylene—127–18–4
Tetrachloronitrobenzene—28804–67–3
Tetrachloronaphthalene
Tetrachlorophthalic anhydride—117–08–8
Tetrakis(hydroxymethyl)phosphonium chloride—124–64–1
Tetraethyllead—78–00–2
Tetramethyllead—75–74–1
Tetranitromethane—509–14–8
Thiazole—288–47–1
Thiocarbonilide
Thioglycolic acid—68–11–1
Toluene—108–88–3
Tributoxyethyl phosphate—Tributyl borate—688–74–4
1,2,3-Trichlorobenezene—87–61–6
1,2,4-Trichlorobenezene—120–82–1
1,3,5-Trichlorobenezene—108–70–3
Trichloronaphthalene—1321–65–9
2,4,6-Trichlorophenol—88–06–2
Triethanolamine—102–71–6
Triphenylphosphine—603–35–0
Trihydroxybutyrophenone—52262–23–4
Tris(4-bromophenyl)phosphate
Tris(2-chloroethyl)phosphite
Tris(2-ethylhexyl)phosphate—78–42–2
Tris(isopropylphenyl)phosphate
Tritolyl phosphate—1330–78–5
Wollastonite ca silicates
meta-Xylene—108–38–3
ortho-Xylene—95–47–6
para-Xylene—106–42–3

Table 5.—*Chemicals Selected for a Battery of Mutagenicity Assays*

Chemicals	CAS No.
Allyl chloride	107-05-1
Bisphenol A	80-05-7
Butylene oxide	26249-20-7
Cyclohexanone	108-94-1
N,N-dimethyl acetimide	
Dimethylformamide	68-12-2
Ethoxyethanol	110-80-5
Ethyl benzene	100-41-4
Ethylene oxide	75-21-8
Hexachlorobutadiene	87-68-3
Mercaptobenzenethiazole	149-30-4
Methyl bromide	74-83-9
2 Methoxyethanol	109-86-4
Bis 2 methoxyethoxyethyl ether	143-24-8
N methyl dicyclohexylamine	
Styrene oxide	100-42-5
1,1,2,2-tetrachlorethane	127-18-4
Vinyl toluene	

TABLE 6.—*International Collaborative Study of Mutagenicity Assay Systems; Compounds To Be Tested*

Carcinogen/Noncarcinogen Pairs	
4-Nitroquinoline-N-oxide—56-57-5	Chloroform—67-66-3
3-Methyl-4-nitroquinoline-N-oxide—14073-00-8	1,1,1-Trichloroethane—71-55-6
Benzidine—92-87-5	2-Acetylaminofluorene
3,3',5,5'-Tetramethylbenzidine—54827-17-7	4-Acetylaminofluorene
4-Dimethylaminoazobenzene (Butter Yellow)—60-11-7	N-Nitrosomorpholine—59-89-2
4-Dimethylaminoazobenzene-4-sulphonic acid	Diphenylnitrosamine—86-30-6
Sodium salt (Methyl Orange)	Dinitrosopentamethylene tetramine
Urethane—51-79-6	1-Naphthylamine—134-32-7
O-Isopropyl-N-3-chlorophenylcarbamate—101-21-3	2-Naphthylamine—91-59-8
Benzo(a)pyrene—	Dimethyl carbamoyl chloride—79-44-7
Pyrene—129-00-0	Dimethylformamide—68-12-2
Propiolactone—57-57-8	Methylazoxymethanol acetate—592-62-1
Butyrolactone—96-48-0	Azoxybenzene—495-48-7
9,10-Dimethylanthracene—781-43-1	d,1.Ethionine—
Anthracene—120-12-7	Methionine—63-68-3

Miscellaneous Compounds

Hydrazine sulphate—10034–93–2
Hexamethylphosphoramide (HMPA—680–31–9
Ethylenethiourea—96–45–7
Diethylstilbestrol—56–53–1
Safrole—94–59–7
Cyclophosphamide—50–18–0
Epichlorhydrin—
3-aminotriazole
4,4'-Methylenebis (2-chloroaniline)—101–14–4
Sugar (sucrose)—57–50–1
O-toluidine—95–53–4
Ascorbic acid—50–81–7
Auramine

Table 7.—*International Collaborative Study of Mutagencity Assay Systems Utilized*

Prokaryotic Systems

Repair deficiency assays:
Bacillus subtilis—rec
Escherichia coli—rec
Escherichia coli—pol A
Point mutation assays:
Salmonella typhimurium/microsome (Ames test)
Salmonella typhimurium 8-azaquanine resistance
Escherichia coli WP–2
Escherichia coli 343–113

Eukaryotic Systems

Fungus:
Saccharomyces cerevisiae—mitotic recombination
Saccharomyces cerevisiae—reversions
Schizosaccharomyces pombe—forward mutations
Saccharomyces cerevisiae—mitochondrial mutations
Neurospora crassa—ad–3 reversions
Plant:
Tradescantia—stamen hair system
Insect:
Drosophila melanogaster—sex-linked recessive lethals
Mammal (in vitro):
Unscheduled DNA Synthesis (human cells)
Sister chromatid exchange (CHO cells)
Chromosome aberrations (hamster and rat cells)
Specific Locus mutations—
L5178Y cells—TK and HGPRT
P388F cells—TK and HGPRT
CHO cells—HGPRT
Human fibroblasts—HGPRT
Mammal (in vivo):
Micronucleus (mouse)
Chromosome aberrations
Sister-chromatid exchange (mouse, rabbit)
Sperm morphology (mouse)

Nongenetic Systems

Hydroxylation of Biphenyl
Local Graying of Hair
In vitro Nuclear Enlargement
Rabins Test
Transformation (BHK Cells)

Table 8.—*Chemicals for Which Lifetime Bioassays Are In Progress*

Chemical	CAS No.	Route	Spec.
Acid black 52		Feed, intratr	RH
Acid orange #3	6373–74–6	Feed	RM
Agar agar	9002–18–0	Feed	RM
Agaritine	2757–90–6	Water	RM
Aldicarb	116–06–3	Feed	RM
Allyl isothiocyanate	57–06–7	Gav	RM
Allyl isovalerate	2835–39–4	Gav	RM
Aminoundecanoic acid	27323–47–3	Feed	RM
Aniline, p-chloro-	106–47–8	Feed	RM
Antimony oxide	1309–64–4	Feed	RM
Asbestos, amosite		Feed	RH
Asbestos, chrysotile SR		Feed	RH
Asbestos, chrysotile IR		Feed	RH
Asbestos, chrysotile SR		Inhal	R
Asbestos, chrysotile IR		Inhal	R
Asbestos, crocidolite		Feed	R
Ascorbic acid	50–81–7	Feed	RM
Benzene	71–43–2	Gav	RM
Benzoin	119–53–9	Feed	RM
Benzyl acetate	140–11–4	Gav	RM
Benzyl chloride	100–44–7	IP/IJ	M
2-biphenylamine HCl	90–41–5	Feed	RM
Bisphenol A	80–05–7	Feed	RM
HC blue 1	2784–94–3	Feed	RM
Blue 15B	574–93–6	Feed	RM
Bromoform	75–25–2	Gav	RM
Bromodichloromethane	75–27–4	Gav	RM
Butylated hydroxytoluene (BHT)	128–37–0	Feed	RM
Butyl benzyl phthalate	85–68–7	Feed	RM
n-Butyl chloride	106–69–3	Gav	RM
t-Butyl alcohol	75–65–0	Water	RM
Caprolactam	105–60–2	Feed	RM
Castor oil	8001–79–4	Feed	RM
Chlorobenzene	108–90–7	Gav	RM
Chlorodibromomethane	124–48–1	Gav	RM
3-Chloro-2-methylpropene	563–47–3	Gav	RM
C.I. disperse yellow 3	2832–40–8	Feed	RM
Cinnamyl anthranilate	87–29–6	Feed	RM
Coconut oil acid diethanolamine (con 2/1)	8040–31–1	SP	RM
Cyclohexanone	108–94–1	Water	RM
Cytembena	2126–70–7	IP/IJ	RM
D & C red No. 9	5160–02–1	Feed	RM
DBCP	96–12–8	Inhal	RM
Decabromodiphenyl oxide	1163–19–5	Feed	RM
Diallylphthalate	131–17–9	Gav	RM
Dibenzo-p-dioxin, 1,2,3,6,7,8-hexachloro	34465–46–8	SP	M
Dibenzo-p-dioxin, 1,2,3,6,7,8-hexachloro	34465–46–8	Gav	RM
Dibenzo-p-dioxin, 2,3,7,8-tetrachloro	1746–01–6	SP	M
Dibenzo-p-dioxin, 2,3,7,8-tetrachloro	1746–01–6	Gav	RM
Diesel fuel marine		Gav	R
Diesel fuel marine		SP	M
1,4-diamino-2,6-dichlorobenzene		Feed	RM
o-Dichlorobenzene	95–50–1	Gav	RM
p-Dichlorobenzene	106–46–7	Gav	RM
1,1-dichloroethylene	75–35–4	Gav	RM
Cis/trans-1,2-dichloroethylene	156–59–2 540–59–0	Gav	RM
1,2-dichloropropane	78–87–5	Gav	RM
Diethanolamine	111–42–2	Water	RM
Di(2-ethylhexyl)adipate	103–23–1	Feed	RM
Di(2-ethylhexyl)phthalate	117–81–7	Feed	RM
Diglycidylresorcinol ether	101–90–6	Feed	RM
n,n-Dimethyldodecylamine oxide	1643–20–5	Water	RM
Dimethylhydrogenphosphite	868–85–9	Gav	RM
Dimethyl methylphosphonate	756–79–6	Gav	RM
Dimethyl morpholinophosphonate	597–25–1	Gav	RM
Dimethylvinylchloride	513–37–1	Gav	RM
Diphenylamine, n-nitroso	86–30–6	Feed	RM
4,4'-diphenylmethane diisocyanate	101–68–8	Gav	RM
Disperse blue #1	2475–45–8	Feed	RM
Disperse yellow #3		Feed, intratr	RH
Dodecyl alcohol, ethoxylated	29718–44–3	Feed	RM
Ethane, 1,2-dibromo	106–93–4	Inhal	RM
Ethane, 1,1,1-trichloro	71–55–6	Gav	RM
Ether, bis(2-chloro-l-methylethyl)	108–60–1	Gav	M
Ether, bis(2-chloro-l-methylethyl)	108–60–1	Gav	R
Ethyl acrylate	140–88–5	Gav	RM

Table 8.—*Chemicals for Which Lifetime Bioassays Are In Progress—Continued*

Chemical	CAS No.	Route	Spec.
Ethyl tellurac	30145-38-1	Feed	RM
Ethylene chlorohydrin	107-07-3	SP	RM
Ethylene glycol monoethyl ether	110-80-5	Water	RM
Eugenol	97-53-0	Feed	RM
Fibrous glass		Inhal	R
Fluometuron	2164-17-2	Feed	RM
Fluorescein, disodium salt	518-47-8	Water	RM
Geranyl acetate	105-87-3	Gav	RM
Gilsonite	12002-43-6	SP	RM
Guar gum	9000-30-0	Feed	RM
Gum arabic	9000-01-5	Feed	RM
Gum tara		Feed	R
HC blue #2		Feed	RM
HC red #3		Feed	RM
8-hydroxyquinoline	148-24-3	Feed	RM
Lauric acid diethanolamine (Con I/I)	120-40-1	SP	RM
Lead dimethyl dithiocarbamate	19010-66-3	Feed	RM
Locust beam gum	9000-40-2	Feed	RM
Malaoxon	1634-78-2	Feed	RM
Malathion	121-75-5	Feed	R
Maleic hydrazide diethanolamine salt	5716-15-4	Water	RM
Malonaldehyde	542-78-9	Gav	RM
Mannitol	69-65-8	Feed	RM
Melamine	108-78-1	Feed	RM
Methapyrilene	91-80-5	Feed	RM
Methylenedianiline	101-77-9	Feed	RM
Methylene chloride	75-09-2	Gav	RM
Methylene chloride	75-09-2	Inhal	RM
Mirex	2385-85-5	Feed	R
Molybdate orange	12656-85-8	Feed	RM
Monuron	150-68-5	Feed	RM
Naphthalene	91-20-3	Gav	RM
Nitrofurantoin	67-20-9	Feed	RM
Oleic acid diethanolamine (Con I/I)	13961-86-9	SP	RM
Orange #10	1936-15-8	Feed	RM
4,4'-oxydianiline	101-80-4	Feed	RM
Pentachloroethan	76-01-7	Gav	RM
Phenol	108-95-2	Water	RM
Phenylbutazone	50-33-9	Water	RM
Phenytoin		Feed (prenatal/ postnatal).	RM
Phthalocyanine green	1328-53-6	Feed	RM
Polychlorinated biphenyl		Feed (prenatal/ postnatal).	RM
Propyl gallate	121-79-9	Feed	RM
Pyridine	110-86-1	Gav	RM
Red #14	3567-69-9	Feed	RM
Reserpine	50-55-5	Feed	RM
p-Rosaniline HCl	569-61-9	Feed	RM
Selenium sulfide	7488-56-4	Gav	RM
Selenium sulfide	7488-56-4	SP	M
Selsun	UNK	SP	M
Sodium dodecyl sulfate	151-21-3	Feed	RM
Sodium(2-ethylhexyl)alcohol sulfate	126-92-1	Feed	RM
Stannous chloride	7772-99-8	Feed	RM
Styrene oxide	96-09-3	Gav	RM
Sudan 1	842-07-9	Feed	RM
Sun yellow FCF	2783-94-0	Feed	RM
Telone	542-75-6	Gav	RM
1,1,1,2-tetrachloroethane	630-20-6	Gav	RM
Tetrachloroethylene	127-18-4	Inhal	RMH
Tetraethylthiuram disulfide	14239-68-0	Feed	RM
THPC	124-64-1	Feed	RM
THPS	UNK	Feed	RM
Toluene diisocyanate	584-84-9	Gav	RM
Tremolite		Feed	R
Trichlorfon	52-86-6	Feed	RM
Trichloroethylene	79-01-6	Gav	RM
Tris(2-ethylhexyl)phosphate	78-42-2	Gav	RM
Violet 3	1325-82-2	Feed	RM
Witch hazel	84400-12-7	SP	RM
Zearalenone	7645-23-0	Feed	RM
Ziram	137-30-4	Feed	RM

Table 9.—*Chemicals selected for Extensive Evaluation of Toxic Effects Including Carcinogenesis*

Compound	NCI No.	CAS No.
2-Amino-4-nitrophenol	C559958	99-57-0
2-Amino-5-nitrophenol	C55970	121-88-0
Ampicillin	C56086	69-53-4
Amyl nitrite (butyl nitrite)	C50179	110-46-3
Arsenicals, organic		
Benzathine penicillin G	C56100	1538-0-6
Benzofuran	C56168	271-89-6
Benzyl alcohol	C06111	100-51-6
2,2-Bis(bromomethyl)-1,3-propanediol.	C55516	3296-90-0
Boric acid		11113-50-1
Bromobenzene	C55492	108-86-1
1,3-Butadiene	C50602	106-99-0
2-Butanone peroxide	C55447	1338-23-4
Caffeine	C02733	58-08-2
Capsaicin		404-86-4
Carbon disulfide	C04591	75-15-0
Chloramine	C56382	55-86-7
Chlorendic acid	C55072	115-28-6

Table 9.—*Chemicals selected for Extensive Evaluation of Toxic Effects Including Carcinogenesis*—Continued

Compound	NCI No.	CAS No.
Chlorinated trisodium phosphate.	C55754	56802-99-4
Chloroacetophenone	C55107	532-27-4
Chlorobenzalmalononitrile	C55118	
Chlorowax 40	C53543	51990-12-6
Chlorowax 500	C53587	56509-64-9
Chlorpheniramine maleate		113-92-8
Cineol (eucalyptol)		470-67-7
Cinnamaldehyde	C56111	104-55-2
2,3-Dibromo-l-propanol	C55436	96-13-9
1,4-Dichlorobenzene	C54955	106-46-7
2,4-Dichlorophenol	C55345	120-83-2
Dichlorvos	C00113	62-73-7
Dimethylaniline	C56188	87-62-7
Diphenhydramine HCL	C56075	147-24-0
DMBA (positive control)	C03918	57-97-6
Ephedrine sulphate	C55652	299-42-3
Epinephrine HCL	C55663	55-31-2
1,2-Epoxybutane	C55527	106-88-7
1,2-Epoxyhexadecane	C55538	7320-37-8
Erythromycin stearate	C55674	114-07-8
Ethyl alcohol	C03134	64-17-5
Ethylbenzene		100-41-4
Ethyl bromide	C55481	74-96-4
Ethyl chloride	C06224	75-00-3
Ethylene oxide	C50088	75-21-8
Formaldehyde	C02799	50-00-0
Furosemide	C55936	54-31-9
Gibberellic acid	C55823	77-06-5
Glutaraldehyde	C55425	111-30-8
Glycidol	C55549	556-52-5
Hematoxylin	C55889	517-28-2
Hexabromobiphenyl (FF-1)	C53634	36355-01-8
Hexafluoroacetone	C08413	10057-27-9
Hexamethyl-p-rosaniline (gentian violet).	C55969	548-62-9
Hexylresorcinol	C55787	136-77-6
Hydrochlorothiazide	C55925	58-93-5
Hydroquinone	C55834	123-31-9
5-Hydroxytryptophan		56-69-9
Iodinated glycerol	C55469	5634-39-9
Isophorone	C55618	78-59-1
Isopropyl glycidyl ether		
d-Limonene	C55572	5989-27-5
Mercaptobenzothiazole		149-30-4
8-Methoxypsoralen	C55903	298-81-7
Methylbenzyl alcohol	C55685	98-85-1
Methyl carbamate	C55594	598-55-0
Methyldopa	C55721	555-30-6
Methyl methacrylate	C50680	80-62-6
Mycotoxins (ochratoxin, penicillic acid).		
Nalidixic acid	C56199	389-08-2
Naphthalene		91-20-3
2-Napthylamine, N pehnyl	C02915	135-88-6
5-Nitro-2-furaldehyde		698-63-5
Nitrofurazone	C56064	59-87-0
Oil of nutmeg		
Oxalic acid	C55209	144-62-7
Pentachloroanisole		1825-21-4
Pentachloronitrobenzene	C00419	82-68-8
Pentachlorophenol	C54933	87-86-5
Phenol	C50124	108-95-2
Phenolphthalein	C55798	77-09-8 5768-87-6
Phenylephrine hydrochloride	C55641	61-76-7
o-Phenylphenol	C50351	90-43-7
Polyurethane		9009-54-5
Propylene	C50077	115-07-1
Propylene oxide	C50099	75-56-9
Pyrrolizidine alkaloids		643-20-9
Retene	C55390	483-65-8
Rhodamine 6G	C56122	989-38-8
Rotenone	C55210	83-79-4
Sodium aluminosilicate	C55505	1344-00-9
Sodium dichloroisocyanurate	C55732	2893-78-9
Sodium fluoride	C55221	7681-49-4
Succinic anhydride	C55696	108-30-5
Sucrose		25702-74-3 9012-95-7 27616-49-5
Sulfamethazine		57-68-1
2,3,7,8-Tetrachlorodibenzofuran.		51207-31-9
Tetrachloroethylene (perchloroethylene).	C04580	127-18-4
Tetracycline hydrochloride	C55561	64-75-5
Tetracycline, oxy	C05209	79-57-2
Tetranitromethane	C55947	509-14-8
Tocopherol		1406-66-2
Toluene	C07272	108-88-3
Trimellitic anhydride		552-30-7
Vinylcyclohexene	C54999	108-94-1
Vinyl toluene		622-97-9
Wollastonite Ca-silicates	C55470	13933-17-0
Xylenes, mixed	C55232	1330-20-7

TABLE 10.—*Chemicals nominated for Toxicologic or Carcinogenic Evaluation*

Compound	NCI No.	CAS No.
1-amino-2, 4-dibromoanthraquinone.		81-49-2
amphetamine	C55710	60-13-9
azodicarbonamide	C55981	123-77-3
benzaldehyde	C56133	100-52-7
benzilic acid, 4,4'-dichloroethyl ester.	C00408	510-15-6
N-butyl chloride	C06155	109-69-3
gama-butyrolactone	C55878	96-48-0
beta-cadinene (oil of cade)	C56008	523-47-7
carvone (caraway, dill seed)	C55867	99-49-0
catechol	C55856	120-80-9
chloramphenicol	C55709	56-75-7
chlordecone (Kepone)	C00191	143-50-0
chlorinated dibenzofurans		
chlorinated naphthalenes		
p-chloroaniline	C02039	106-47-8
chlorpromazine	C05210	69-09-0
chromium inorganic	C04273	7440-47-3
copper and inorganic compounds.	C08515	7440-50-8
corn oil	C00577	8001-30-7
curcumin		458-37-7
2,4-diaminophenol hydrochloride.		
4,4-diamino-2,2'-stilbenedisulfonic acid.		
cis-dichlorodiamine platinum (II).	C55776	15663-27-1
1,1-dichloroethylene	C54262	75-35-4
cis- & trans-1,2-dichloroethylene.	C51581	156-59-2
dichloropropane		26638-19-7
diethyl phthalate		84-66-2
3,4-dihydrocoumarin	C55890	119-84-6
dimethoxane ("dioxin")	C56213	828-00-2
3-3'dimethoxybenzidine	C02175	91-93-0
dimethyl sulfoxide	C00873	67-68-5
ethoxyethanol	C54853	110-80-5
ethylene glycol	C00920	107-21-1
furan	C56202	110-00-9
furfural	C56177	98-01-1
furfuryl alcohol	C56224	98-00-0
glycol	C00817	9005-65-6
H C yellow No. 4	C56019	52551-67-4
hexachlorobutadiene		87-68-3
hexachlorocyclopentadiene	C55607	77-47-4
hexachloroethane	C04604	67-72-1
hormones		
hydroxyacetanilide		
4-hydroxyacetanilide	C55801	103-90-2
indomethacine	C56144	53-86-1
iron compounds		
isoproterenol HCL	C55630	7683-59-2
lead oxide		1335-25-7
lithium and compounds		7439-93-2
manganese compounds	C02517	7439-96-5
mercury (metal)	C04375	7439-97-6
mercuric chloride		7487-94-7 43412-44-8
phenyl mercuric acetate		
methapyriline	C09018	91-80-5
methyl coumarin	C55812	92-48-8
o-methylhydroxylamine		67-62-9
methyl ethyl ketone peroxide		1338-23-4
monochloroacetic acid	C08264	79-11-8
monochloroethane		75-003
monosodium methane arsenate.		
navy fuels JP-5	C54784	
nitrobenzene		98-95-3
nitrophenols		
p-nitropenol	C55992	100-02-7
N-nitrosodiethanolamine	C55583	1116-54-7
nitrotoluene		1321-12-6
octachlorodibenzodioxin	C03678	3268-87-9
oleic acid, methyl ester, cis		
organophosphates		
palladium (2+) chloride		
pentachloroethane	C53894	76-01-7
pentaerithritol tetranitrate	C55743	78-11-5
petroleum distillates		
phenol, 2,2'-thiobis(4,6-dichloro).	C02948	97-18-7
D-phenylalanine		673-06-3
N-phenylhydroxylamine		100-65-2
pichloram	C00237	1918-02-1
platinum and compounds		7440-06-4
polyvinylpyrrolidone polymers		
potassium azide		20762-60-1
probenecid	C56097	57-66-9
quercetin		522-12-3
p-quinone	C55845	106-51-4
resorcinol	C05970	108-46-3
rhodamine	C56122	989-38-8
sodium azide	C06462	26628-22-8
sodium dichloroisocyanurate	C55732	2893-78-9
styrene	C02200	100-42-5
talc	C06008	14807-96-6
L-taurine		107-35-7
tellurium		13494-80-9
tetrahydrofuran		109-99-9
tetrakis (hydroxymethyl) phosphonium chloride.	C55061	124-64-1
titanium & compounds—titanium.	C04251	7440-32-6
titanium oxide	C04240	13463-67-7
titanium ferrocene	C04502	1271-19-8
trichloroethylene	C04546	79-01-6
trichloropropane		25735-29-9
2,4,6-trinitrotoluene	C56155	118-96-7
tris (4-bromophenyl) phosphate.		
tris (2-chloroethyl) phosphate		115-96-8
vinyl cyclohexene dioxide		
vinylidene fluoride		
vitamin D		1406-16-2
vitamin D_3		67-97-0
witch hazel	C50544	84400-12-7
xylenesulfonic acid, sodium salt.	C55403	1300-72-7
2,6-xylidine	C56188	87-62-7

Table 11.—*Chemicals Studied for Behavioral or Neurologic Effect*

Chemicals	CAS No.
Carbon disulfide [a]	75-60-5
Chlordecone	143-50-0
Caffeine [b]	58-08-2
Ethanol [b]	64-17-5
Ethylene oxide	75-21-8
Lithium carbonate	554-13-2
Mercaptobenzothiazole	149-30-4
Methyl bromide	74-83-9
Methyl chloride [b]	74-87-3
Methylethyl ketone [c]	78-93-3
Polybrominated biphenyl	
Propylene oxide	75-56-9
Selenium	7488-56-4
Toluene [c]	108-88-3
Valium [b]	439-14-5
Xylene	1330-20-7

[a] Human subject study.

[b] Includes human subject study and interaction of methyl chloride, caffeine, ethanol and valium.

[c] Includes human subject study and interaction of toluene, methyl ethyl ketone, and xylene.

[FR Doc. 79-22733 Filed 7-23-79; 8:45 am]

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federal register

Tuesday
July 24, 1979

Part V

Department of Health, Education, and Welfare

Office of Education

Financial Assistance for Local Educational Agencies in Areas Affected by Federal Activity

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 114

Financial Assistance for Local Educational Agencies in Areas Affected by Federal Activity

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: These final regulations govern the award of Federal assistance to school districts that enroll certain categories of children receiving free public education in areas affected by Federal activities. They are designed to ensure the safety of children who are educated on federally owned property, and to make certain that handicapped children have access to educational programs located on federally owned property.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register.** The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Stormer, Office of Education, Room 2107A, 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245–8427.

SUPPLEMENTARY INFORMATION:

A. Background

Section 10 of Pub. L. 81–815 provides for direct Federal construction of school facilities for children residing on Federal property. It was adopted to serve two situations where the Commissioner should take the responsibility to provide school facilities for children residing on Federal property:

Section 10(a)(1)—where State law precludes the expenditure of funds to educate children on Federal property.

Section 10(a)(2)—where the local educational agency (LEA) is unable to provide a suitable free public education for children residing on Federal property.

The Commissioner published in the **Federal Register** on February 14, 1979 a Notice of Proposed Rulemaking (44 FR 9727). During the period allowed for comments in response to the proposed regulations, two comments were received. Comments and responses are included in section B of the preamble.

Priority Ranking

Funding priorities for section 10 were initiated to distribute limited funds. Groups for establishing priority in funding at present are as follows:

1. Repairs to existing federally-owned school facilities for children's safety.

2. Upgrading for facility transfer where an LEA has assured the Commissioner that it will apply for and accept ownership of the federally-owned facilities.

3. Upgrading or new construction or both to provide facilities for unhoused students.

4. New construction, remodeling, or rehabilitation necessary to permit the implementation of a contemporary education program.

Authority to Initiate Study

The Commissioner of Education directed the initiation of an in-depth study to analyze section 10 school construction needs.

Findings

The findings of the in-depth study projected a total cost estimate of $198,231,641 ($200 million) in FY 1976 dollars to repair, upgrade, or construct school facilities to provide for contemporary educational programs.

Construction estimates for upgrading existing facilities to meet life safety and handicapped access standards total approximately $10.5 million in 1976 dollars.

Estimates for construction of replacement facilities where upgrading is not sufficient to meet life safety standards total approximately $60 million in 1976 dollars.

For the purpose of this estimate, it is assumed that the responsible LEA is unable to provide a suitable free public education for the children concerned. A determination to this effect, of course, will be required prior to the initiation of any extensive remodeling or new construction.

The in-depth study disclosed many instances where existing school facilities are simply inadequate to house the total number of pupils enrolled. Large numbers of children are required to be housed in makeshift facilities, such as those that have been abandoned from the use they originally served.

Some of the pupil membership increases have resulted from Department of Defense programs to construct additional on-post military family housing units at an accelerated pace over the past several years, or from a change in the basic mission the installation serves.

The safety of children being educated in buildings under the Commissioner's cognizance is a first priority. A portion of the construction needed to bring existing facilities up to life safety standards requires only repairs or upgrading activities. Construction can be performed which will meet life safety standards and achieve access for the handicapped equal to that called for by section 504 of the Rehabilitation Act of 1973.

Certain section 10 facilities, however, cannot be made life safe (i.e., old wooden buildings with an unacceptable "burn rate") and, therefore, construction of replacement facilities is required.

In these cases, the current priority system precludes the Commissioner from targeting money toward major renovation or new construction efforts.

Amendment to the Regulations

Modification of the priorities, by regulation, of the existing funding priority groupings to be promulgated are as follows:

(1) Emergency repairs for the children's safety.

(2) Upgrading and new construction to meet life safety and handicapped access standards.

(3) Upgrading to provide facility transfers to LEAs.

(4) Upgrading to provide facilities for unhoused children.

(5) Upgrading and/or new construction to provide contemporary educational programs.

Criteria by which to judge "suitable free public education" and "ability to provide suitable free public education" have never been defined in the regulations or the law. Without established criteria and a revision of priorities, applicants cannot be sure of their eligibility status. These two amendments will alleviate the present shortcoming.

This definition of "suitable free public education" is distinguished from the definition of "free appropriate public education" in section 602 (18) of the Education of the Handicapped Act. Although the definitions may have similar application to the situation of handicapped children in certain instances, the latter definition applies specifically to special education and related services.

The primary standard against which to measure an LEA's suitability will be that which is commonly provided in the State. The school attended by a pupil residing on Federal property must be

within the State's established maximum commuting distance from that pupil's home.

The programs of instruction offered or which can be offered must meet minimum standards for State accreditation or approval. In the event a State has not established minimum educational requirements, the Commissioner then may apply appropriate accreditation associations' standards to assess suitability of the LEA's program of instruction.

Examination will also be made of the ability of the LEA to provide suitable free education, particularly as it applies to school construction. Operational indicators would be the percentage of the LEA's bonded indebtedness; the present level of debt service; and the amount of resources the LEA has, State, local, and Federal, to provide minimum school facilities for the children to be housed.

B. Summary of comments and responses

The following is a summary of the comments received and the responses of the Commissioner.

§ 114.5 Determination of priority indices and priority grouping for applications.

(1) *Comment.* A commenter urged that "upgrading to provide facilities for unhoused children" be raised from number four (4) priority to number two (2) priority, at least for long standing applications.

Response. No change has been made in the regulations. Section 3 of Pub. L. 81–815 provides that the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under the Act are less than necessary to accommodate all applications. The funds allocated will be reserved for applications on this priority listing in order of priority indices.

The safety of children being educated in buildings under the Commissioner's cognizance is a first priority. A portion of the construction needed to bring existing facilities up to life safety standards requires only repairs or upgrading activities. Construction can be performed which will meet life safety standards and achieve access for the handicapped equal to that called for by section 504 of the Rehabilitation Act of 1973.

Certain facilities cannot be made life safe. In some instances they are old wooden frame buildings with an unacceptable burn rate. Therefore, construction of replacement facilities is necessary. In these cases, the current priority system precludes the Commissioner from targeting money toward the replacement of those facilities. This in effect, will provide proper space for many of the currently unhoused pupils since they are presently required to be housed in makeshift facilities that have been abandoned from the use they originally served. It is estimated that it will take $90 million in 1979 dollars to construct replacement facilities where upgrading is not sufficient to meet life safety standards.

(2) *Comment.* A commenter questioned whether the Advisory Council on Historic Preservation had been consulted in developing procedures to assure that this program contributes to the preservation and enhancement of sites and structures of historic, architectural, or archeological significance.

Response. No change has been made in the regulations. The amendments to the regulations are, in this instance simply to revise the priority grouping for funding eligible applications and to define the terms "suitable free public education" and "ability to provide suitable free public education."

C. Location of changes in the Regulations to Implement the New Amendments in Pub. L. 81–815

Under § 114.1 (*Definitions*)—Add a new definition (a) "Ability to provide suitable free public education" before (a) "Act" and redesignate paragraph (a) as (a–1).

Add a new definition (w-1) "Suitable free public education" after (w) "Subpriority indices."

Under § 114.5 (*Determination of priority indices and priority groupings for applications*)—Under subparagraph (b)(2) add a new item (ii) and change (ii) to (iii), (iii) to (iv), and (iv) to (v). The new priority is as follows:

(ii) Applications in cases where upgrading or new construction or both is necessary to meet life safety and handicapped access standards.

D. Citation of legal authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance Nos. 13.477, School Assistance in Federally Affected Areas—Construction)

Dated: June 6, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: July 16, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

Accordingly Part 114 of 45 CFR is amended in § 114.1 by adding new paragraph (a) and redesignating paragraph (a) as (a–1), and adding new paragraph (w–1) after paragraph (w); and by revising § 114.5(b) to read as follows:

PART 114—ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§ 114.1 Definitions.

As used in this part, the term:

(a) *Ability to provide a suitable free public education for the purposes of section 10 of the Act.* The Commissioner considers a local educational agency (LEA) able to provide a suitable free public education if the LEA—

(1) Has the authority under State law to provide suitable free public education to pupils residing on Federal property;

(2) Has not refused to provide that education;

(3) has the authority to provide educational facilities on property it does not own where the LEA determines that the property is necessary to serve pupils residing on Federal property; and

(4) Has the actual or potential financial resources and/or facilities to provide that education.

* * * * *

(w–1) Free public education is considered "suitable" for purposes of section 10 of the Act if—

(1) The primary language of instruction is English; and

(2) The school facility which a pupil attends or would attend is within the State's established maximum commuting distance from a pupil's home; and

(3) The programs of instruction offered or which can be offered with combined local, State, and Federal resources meet standards for State accreditation or approval. If the particular State has not established standards for accreditation or approval, the Commissioner applies appropriate accreditation associations' standards to assess suitability of the LEA's program of instruction; or

(4) In the judgment of the Commissioner, an arrangement under section 10 would operate, because of adverse social and political factors, to the serious detriment of the children to be served.

(20 U.S.C. 640(a)(2))

* * * * *

§ 114.5 Determination of priority indices and priority groupings for applications.

* * * * *

(b) For requests under section 10 of the Act, a priority index will be determined for the first pending requested project of each applicant by adding—

(1) The percentage that the estimated number of children for whom minimum school facilities are to be provided is of the total estimated number of all children residing and attending school on the installation at the close of the applicable period; and

(2) The percentage of the estimated school membership at such installation which is without minimum school facilities as of the same time.

However, in no case will the combined percentage used in determining the priority index exceed twice the percentage arrived at in subparagraph (1) of this paragraph. In determining the order of priority for approving applications under section 10, applications will be classified in priority groups for funding from funds allocated for applications under section 10 as prescribed in paragraph (c) of § 114.4. A priority listing will be established for each such group in the following order:

(i) Applications requesting major repairs necessary for the safety of school children or to prevent further deterioration of existing school facilities;

(ii) Applications in cases where upgrading or new construction or both is necessary to meet life safety and handicapped access standards;

(iii) Applications in cases where the LEA which operates the school program in school facilities located on Federal property has given assurance and a firm commitment to the Commissioner that, upon completion of the proposed project, it will accept ownership of such school facilities under section 10(b) of the Act;

(iv) Applications in cases where there are unhoused pupils; and

(v) Applications requesting the construction of capacity or noncapacity school facilities, or the rehabilitation or remodeling of existing school facilities which is required to bring the school facilities up to a standard which will permit the offering of a contemporary educational program.

(20 U.S.C. 640)

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[FR Doc. 79-22745 Filed 7-23-79; 8:45 am]

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federal register

Tuesday
July 24, 1979

Part VI

Department of the Interior

Fish and Wildlife Service

Proposed Listing with Endangered Status for the American Crocodile and the Saltwater Crocodile Outside Papua New Guinea

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Proposed Listing with Endangered Status for the American Crocodile Throughout its Range and the Saltwater Crocodile Exclusive of the Papua New Guinea Population

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the American crocodile (*Crocodylus acutus*) and the saltwater crocodile (*Crocodylus porosus*) populations outside of Papua New Guinea be listed as Endangered species. This action is being taken because both species have suffered serious losses of habitat throughout their ranges and have been subject to extensive poaching for their hides. The Papua New Guinea population of *C. porosus* is not being included in this proposed action because of the assurances of the government of Papua New Guinea that crocodile farming is under strict control within that country and that wild populations are not being jeopardized by such activity. The Florida population of *C. acutus* is already listed as Endangered under provisions of the Act. This rule would provide additional protection to wild populations of both species, presently listed on the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, by futher restricting commercial trade in their parts and products.

DATES: Comments from the public must be received by October 26, 1979. Comments from the governments of the countries where these species occur must be received by October 26, 1979.

ADDRESSESS: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (703/235–1975).

SUPPLEMENTARY INFORMATION:

Background

The American crocodile, *Crocodylus acutus*, ranges throughout the Caribbean Sea, and on the Pacific Coast of Central and South America from Mexico to Ecuador in primarily coastal waters. Portions of the following countries are known to have or have had populations of this species: United States, Mexico, Colombia, Venezuela, Ecuador, Guatemala, El Salvador, Honduras, Nicraragua, Costa Rica, Panama, Trinidad and Tobago, Jamaica, Cuba, Haiti, the Dominican Republic, and Belize. The Florida population is currently listed as Endangered and its Critical Habitat has been determined (see the Federal Registers of September 25, 1975 [40 FR 44149–44151] and September 24, 1976 [41 FR 41914–41916]).

On May 23, 1975, Professor Federico Medem of the Faculty of Science of the National University of Columbia petitioned the Secretary of the Interior to list, under protection of the Endangered Species Act of 1973, the American crocodile throughout its range. However, only the Florida population was actually proposed and eventually listed.

The saltwater, or estuarine, crocodile, *Crocodylus porosus*, ranges throughout Southeast Asia and includes the countries of Australia, Papua New Guinea, Indonesia, Philippines, Malaysia, Thailand, Burma, Bangladesh, India, Cambodia, Vietnam, and Sri Lanka. This species may be the largest of reptiles, with reports of lengths well over 20 feet (7 meters), although leatherback sea turtles may weigh more.

All populations of the saltwater crocodile and all populations of the American crocodile, with the exception of those in Florida, were proposed as Endangered under the Similarity of Appearance clause of the Act (Federal Register of April 6, 1977; 42 FR 18287–18291); no final action has been taken as of this date on that proposal. Populations of *C. acutus* are listed on Appendix II (other than Florida which is on Appendix I) and *C. porosus* on Appendix I (other than Papua New Guinea which is on Appendix II) On the Convention of International Trade in Endangered Species of Wild Fauna and Flora.

In the Federal Register of February 5, 1979 (44 FR 7060–7061), the Fish and Wildlife Service published a Notice of Review on the status of these species. Information contained in the notice summarized existing knowledge concerning their status and the reasons for conducting the review. Persons who desire to review these data should consult this document or the *Endangered Species Technical Bulletin* of March, 1979; these documents are available from the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

A total of 15 comments were received in response to the notice. These comments are summarized below:

Pong Leng-EE (Wildlife Conservation Division, Thailand): Mr. Leng-EE agreed that wild populations of the estuarine crocodile are in need of protection in Thailand but requested an exception to any rulemaking for those crocodiles raised on a breeding farm in Samutprakarn province.

Henry Norries (First Secretary, Embassy of Papua New Guinea, Washington, D.C.): Mr. Norries included a report on the status, protection and management of crocodiles in Papua New Guinea. Parts of this report are reprinted below.

1. *Status.*—Papua New Guinea is inhabited by two species of crocodiles: the saltwater or estuarine crocodile, *Crocodylus porosus* and the freshwater crocodile, *Crocodylus novaeguineae.*

The saltwater crocodile was extensively hunted in the 1950's and 1960's and has been generally much reduced in major rivers and estuaries. Residual populations still exist in certain major rivers and their tributaries, but no reliable estimates are available about the present status of the population. It is believed that the ban on export of skins greater than 20" belly-width provides reasonable protection of the adult population. However, a high proportion of the juveniles are vulnerable to the hunter. There are no indications that the program of farming crocodiles has resulted in an increased decline of the wild population.

The freshwater crocodile is well established in large expanses of freshwater swamp, which restricts the proportion of juveniles which can be caught. Because it occurs in these strongholds in reasonable numbers and because efficient hunting in these areas is generally almost impossible, there does not seem to be any indication that this species may be endangered. The species has, however, been virtually eliminated from the major rivers.

2. *Protection.*—The following laws are relevant to crocodile protection in Papua New Guinea:

1. The fauna (Protection and Control) Act of 1966, its amendments of 1970 and Regulations of 1974;

2. The Customs (Prohibition) Act Regulations, and

3. The Crocodile Trade Act, 1966.

Under these acts and regulations, the illegal and commercial export of crocodile skins has been controlled.

Records are being kept on the export of all crocodile skins.

Crocodiles over 20" belly-width cannot be legally traded; this serves to protect the adult population.

Illegal skins are confiscated and offenders prosecuted.

3. *Management.*—Crocodiles in Papua New Guinea are managed by the National Crocodile Project, assisted by a UNDP/FAO project since 1 January 1977. The objectives of the management program are the following:

1. Prevent species extinction;

2. Assess stocks and enhance recovery towards ecologically optimal levels, and

3. Develop controlled commercial utilization in such a way that ultimately a sustained utilization can be obtained.

With assistance from the UNDP/FAO project, a network of village, business and government crocodile farms has been established as follows (March 1979):

Village farms, 130.
Business Farms, 10.
Government farms, 5.

The objective of the farming program is to raise crocodiles to commercial slaughtering size and to reduce mortality (which is presumed to be higher in the wild).

During the last three years a captive breeding program has been established and the following number of crocodiles of breeding age are kept on the government farm at Moitaka:

Female *C. novaeguineae*, 24.
Male *C. novaeguineae*, 13.
Female *C. porosus*, 30.
Male *C. porosus*, 16.

This program has been successful insofar as most captive females have laid eggs and hatchlings have been successfully reared for three years in succession. This year mortality among hatchlings will be reduced considerably, because of improved facilities. The breeding program of saltwater crocodiles will be stepped up considerably.

The government has agreed with UNDP to extend the FAO project on assistance to the crocodile skin industry to include monitoring and a program has been planned for implementation. It should therefore be possible by the end of 1979 to produce a report on population trends and to arrive at a better undertstanding of whether or not the saltwater crocodile population is over-exploited.

Dr. Leslie Garrick: Dr. Garrick offered additional information to that contained in the Notice of Review on American crocodile populations in the Canal Zone, Dominican Republic, and Jamaica. He suppported listing this species on appendix I of the Convention.

Stefan Graham (Director, Baltimore Zoo): Mr. Graham supported protection for these species because of the threats of taking for hides and lack of protection in many areas of their ranges.

Ray Pawley (Curator of Reptiles, Brookfield Zoo): Mr. Pawley provided data on crocodile populations in the Dominican Republic, particularly at Isla Cabritos. He recommended encouraging the protection of the two breeding groups of American crocodiles occurring at Isla Cabritos.

Peter C. H. Pritchard (Florida Audubon Society): On behalf of the Florida Audubon Society, Dr. Pritchard supported a proposal to list both species as Endangered. With regard to crocodile farms, Dr. Pritchard states:

> In some areas, such as Papua New Guinea, the estuarine crocodile is harvested under a reasonably controlled program, and it is probably not necessary for this harvest to be stopped at present. Similarly, estuarine crocodiles are raised commercially on several farms in South-east Asia. However, there is no need for hides from these operations to be exported to the United States, and indeed it would be better if these hides were exported to other areas, such as France and Italy, over which the United States has no control, so that they may partially displace the demand for hides from other areas or of truly endangered crocodilian species.

Seymour Levy (Safari Club International): Mr. Levy provided information on crocodile farming in Papua New Guinea and stressed the need for providing economic incentive. He also stated that he hoped the estuarine crocodile would be retained on Appendix II to the Convention instead of transferring it to Appendix I.

A. de Vos (Project Manager, FAO, Papua New Guinea): Mr. de Vos took issue with Dr. Faith Campbell's statements on crocodile scarcity contained in the Notice of Review by indicating that estuarine crocodiles can be observed "regularly in some numbers" in the Fly, Bensbach, and Turama Rivers. Mr. de Vos also included a statement by M. Raga outlining the crocodile industry in Papua New Guinea in relation to crocodile conservation. Mr. Raga states "even though there may have been some over-exploitation of the wild crocodile population of Papua New Guinea in recent years, the populations of both species (*C. porosus* and *C. novaeguineae*) are far from threatened at present."

The Service also received information from U.S., embassies in Haiti, Ecuador, Costa Rica, Malaysia and Papua New Guinea which stated that: officials in Malaysia believe the estuarine crocodile to be very endangered; that officials in Papua New Guinea do not believe a ban on the importation of crocodile skins to be in the best interests of either that country or the conservation of the species; that the crocodile is almost extinct in Haiti although there may be a few in Lake Saumatre; studies are underway on the crocodile in Ecuador; crocodiles are uncommon in Costa Rica and there is illegal trade of skins to Nicaragua.

The most completed data on both species were supplied by Dr. F. Wayne King of the New York Zoological Society. He submitted two reports which summarize the known status of these species: "Review of the status of the American crocodile, *Crocodylus acutus*" by F. W. King, H. W. Campbell, and F. Medem, and "Review of the status of the estuarine or saltwater crocodile, *Crocodylus porosus*" by F. W. King, H. W. Campbell, H. Messel, and R. Whitaker. Both reports are extensive and document the decline of the two crocodiles. The summaries are reprinted below:

"In summary, there appears to be no area within the historic range of *Crocodylus acutus* where healthy populations exist without serious threat from exploitation and/or habitat degradation. The species exists today only in isolated, small populations scattered in the more isolated and impenetrable areas within the historical range and, wherever found, it is still hunted commercially or for local consumption (both eggs and flesh) or killed as vermin. Wherever data exist, over-exploitation for hides is clearly indicated as a major factor in the reduction of populations to the present lows, but today this threat is compounded by habitat degradation and/or increased human activities (commercial fisheries, etc.) in the remaining habitat. The species is recognized as endangered by the IUCN/SSC Crocodile Specialist Group."

Crocodylus porosus is a wide-ranging species which is virtually extinct or reduced to small populations throughout the bulk of its range. Very few actual population data are available for the species, but all available observations indicate dramatic population reductions from historical levels as a result of unregulated hide exploitation, vermin control, and habitat loss. The volume of hides being traded internationally has dropped from over

100,000/year to fewer than 20,000/year in the last decade (Fuchs, personal comm.), while prices have been rising. The species is unprotected over most of its range and is most heavily commercialized in those countries without the protection of any program of census or management. The species is only managed, by any modern concept of wildlife management, in Papua New Guinea which still, however, has no active census program. It is effectively protected only in Australia where extensive studies suggest no actual recovery over the last five years.

The proposal of the government of India to place its population of *Crocodylus porosus* on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora is fully supported by the available data, but the vast majority of all other *C. porosus* populations are equally threatened with extinction. Clearly closure of international trade in hides and other products of *C. Porosus* is mandated by the available information. Recognition of the status of the wild populations led the IUCN/SSC Crocodile Specialist Group in 1978 to recommend placement of *Crocodylus porosus* on Appendix I of the CITES. We concur with the recommendation and urge the entire species (all populations) be placed in Appendix I of the CITES until the wild populations have recovered and adequate, national management programs for the species are developed and implemented.

Robert O. Wagner (American Association of Zoological Parks and Aquariums): On behalf of the AAZPA, Mr. Wagner supported the listing of the two crocodiles because of rather dramatic population declines in recent years.

This should be deleted or broadened. We are also relying on other evidence we had before the review and Office of Endangered Species' professional expertise. The Director has determined that the American crocodile populations outside of Florida and all populations of the estuarine (saltwater) crocodile, except those of Papua New Guinea, should be proposed as Endangered species. Those populations of *C. porosus* in Papua New Guinea will be continued to be considered for listing under the Similarity of Appearance clause of the Act (see the **Federal Register** of April 6, 1977 (42 FR 18287–18291)); a decision concerning this population will be made at a later time.

Section 4(a) of the Act (16 U.S.C. 1531 et. seq.) states:

General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilizastion for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the American crocodile outside of Florida and the estuarine crocodile populations outside of Papua New Guinea, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range*—The increasing human population throughout the ranges of these species has resulted in a loss of much available habitat for the crocodiles. Because crocodilians do not tolerate much disturbance, especially during nesting seasons, human populations have impacted the species by harrassment as well as by direct destruction of suitable basking and nesting sites. This problem (habitat destruction due to encroaching human population) is especially severe in Central America, the Caribbean, and South America (for the American crocodile) and Southeast Asia, such as Sarawak and Sri Lanka (for the estuarine crocodile). It is most probable that the continuing expansion of human populations in these areas will result in increasing amounts of habitat destruction and harrassment (i.e. curtailment of its range) in the future.

2. *Overutilization for commercial, sporting, scientific, or educational purposes*—This is the major factor involved in the decline of both *C. acutus* and *C. porosus*. The hides are extremely valuable in the production of fashionable leather luxury items; this has led to the severe decline or elimination via hunting of virtually all populations of both species where not protected. Indeed, even in countries with restricted taking of and commerce in crocodiles, poaching continues to severely impact crocodilian populations. In some countries, poorly managed and ill-conceived commercial crocodile farming schemes have also resulted in a drain on populations, particularly of *C. porosus*, since they often rely on young collected in the wild. Some farms have gone as far as to hybridize *C. porosus* with protected species in order to circumvent trade and conservation restrictions, thus resulting in a drain on both species involved. Commercial exploitation can be expected to continue as prices are high and regulatory mechanisms are weak or lacking.

3. *Disease or predation*—These factors are probably not significant in the decline of *C. acutus* and *C. porosus*. However, natural predation may seriously affect the ability of populations already reduced through overexploitation and habitat destruction to maintain themselves.

4. *The inadequacy of existing regulatory mechanisms*—While many of the countries where these species occur have laws to protect crocodilians, they are often ignored, unenforced, or impossible to enforce because of lack of manpower, funds, or magnitude of the problem. The lack of effective means to protect crocodilians is a major problem in the conservation of wild populations of these species; this is especially true with both *C. acutus* and *C. porosus*.

5. *Other natural or man-made factors affecting its continued existence*—Malicious killing of these crocodilians occurs wherever they are found and undoubtedly contributes to their decline, especially in areas near human populations. Crocodiles are also take accidently by fishing nets and are killed whenever encountered especially *C. porosus*, where the species has a reputation as a maneater.

Effects of the Rulemaking

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. The regulations referred to above, which pertain to Endangered species, are found at Section 17.21 of Title 50, and are summarized below.

With respect to the American crocodile and estuarine crocodile (except the Papua New Guinea population), all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the **Federal Register** of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and

17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 4(a)(1) of the endangered Species Act of 1978:

At the time any such regulation (any proposal to determine a species to be an Endangered or Threatened species) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Since the species under consideration in the rulemaking are not domestic, this amendment does not apply.

The Endangered Species Act Amendments of 1978 further state the following:

(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

(i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation;

(I) In the **Federal Register**; and

(II) If the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;

(ii) Shall offer for publication in appropriate scientific journals the substance of the **Federal Register** notice referred to in clause (i)(I);

(iii) Shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and

(iv) Shall—(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefore is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

(II) If the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

In the case of the two crocodiles herein considered, Section 4(B)(i)(I) above is hereby complied with. In addition, the following scientific journals will be notified of the proposal and offered a copy of the **Federal Register** document for either publication or distribution to scientists: Copeia, Herpetologica, Herpetological Review, and the Journal of Herpetology. Since these species are not domestic and no critical habitat is included in the proposal, none of the other amended subsections of this Section are applicable.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientifc community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the American crocodile and Estuarine crocodile;

(2) Additional information concerning the range and distribution of these species.

National Environmental Policy Act

A draft environmental assessment has been prepared pursuant to the Executive Order 12114 and is on file in the Service's Washington Office of Endangered Species, Suite 500, 1000 N. Glebe Road, Arlington, Virginia. It addresses this action as it involves the two crocodilians.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703/235–1975).

Regulations Promulgation

Accordingly, it is proposed that Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations be amended as follows:

1. By adding the American crocodile throughout its range and the estuarine crocodile (exclusive of the Papua New Guinea population) to the list, alphabetically, under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptiles:							
Crocodile, American	Crocodylus acutus	N/A	U.S.A. (FL); Mexico, S. & C. America; Caribbean.	Entire	E	10	N/A
Crocodile, Saltwater (estuarine)	Crocodylus porosus	Entire, except Papua New Guinea	Southeast Asia, Australia, Papua New Guinea, Pacific Islands.	Entire, except Papua New Guinea.	E		N/A

Note.—The Department of the Interior has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Dated: July 12, 1979.

M. Spear,

Acting Director, Fish and Wildlife Service

[FR Doc. 79-22767 Filed 7-23-79; 8:45 am]

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federal register

Tuesday
July 24, 1979

Part VII

Merit Systems Protection Board

Freedom of Information Act; Privacy Act; and Government in the Sunshine Act; Final Rulemaking

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1204, 1205, 1206

[Docket No. 79-2—Notice 2]

Final Rulemaking; Freedom of Information Act; Privacy Act; Government in the Sunshine Act

AGENCY: Merit Systems Protection Board.

ACTION: Final rulemaking.

SUMMARY: These regulations establish procedures for the Merit Systems Protection Board pursuant to the requirements of the Freedom of Information Act; the Privacy Act; and the Government in the Sunshine Act.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Alan Greenwald or Deborah House (202–653–7101).

SUPPLEMENTARY INFORMATION: This publication constitutes the final regulations of the Merit Systems Protection Board implementing the Freedom of Information Act (5 U.S.C. 552); the Privacy Act (5 U.S.C. 552a); and the Government in the Sunshine Act (5 U.S.C. 552b).

These regulations were published on March 23, 1979 (44 FR 17964–17967) for interim effect and with a request for comments. Several comments were submitted, most of which suggested changes of a technical nature which have been adopted. Additionally some minor language changes have been made by the Board. The three substantive changes, all contained in the regulations issued under the Privacy Act, are discussed below.

Section 1205.4 Application of the Freedom of Information Act, has been added to the regulations. This section is intended to put individuals on notice that, as required by law, records otherwise subject to the protections from disclosure under the Privacy Act may be subject to disclosure under the Freedom of Information Act.

Given its role as adjudicator of employee appeals, the great majority of records maintained by the Board fall within the category of personnel files. Disclosure of these files is not required under the Freedom of Information Act pursuant to 5 U.S.C. 552(b)(6) if to do so would "constitute a clearly unwarranted invasion of personal privacy." However, under relevant court interpretations it should be recognized that this exemption is not automatically applicable, but a determination must be made on a case by case basis. Accordingly, such records may be released where the facts and circumstances dictate that such release is appropriate.

Section 1205.15 Medical Records, has been deleted. This section provided that, where necessary, medical records pertaining to an individual might be released only to a physician designated by the individual. This provision was very similar to one adopted by the Civil Service Commission and codified at 5 CFR 297.108(c)(1) pursuant to 5 U.S.C. 552a(f)(3). Reflecting the growing public opinion that individuals should have access to all files pertaining to themselves, the Board has deleted this provision.

A new § 1205.15, Denial of Access, has been added to the rules. The purpose of this section is to put the public on notice that certain files otherwise subject to the access provisions of the Privacy Act may be exempt from disclosure by the Board. Specifically, the records exempted are investigatory files compiled for law enforcement purposes. This exemption is based on the anticipation of the Board that from time to time it will maintain such records in conjunction with an action brought by the Special Counsel. In determining whether these records will be withheld, the Board will analyze whether they are exempt under exemption (b)(7) of the Freedom of Information Act. Application of this exemption requires not only that the records be of an investigatory nature compiled for law enforcement purposes, but also that certain types of harm be demonstrated in order to justify withholding. Thus, denial of disclosure will not be made merely on the basis of the characterization of these records.

One comment suggested that the provisions as now written be substantially expanded. However, the Board's position is that these regulations, which are used by the public, should contain only that information necessary to advise the public of rights under these statutes in a clear and understandable form. Issuance of provisions pursuant to each subsection of these three Acts was determined not to be desirable for that reason. This is not meant, however, to limit application of the statutory provisions in any manner. Those provisions will be applied whenever appropriate.

Issued on July 2, 1979, by order of the Board.

Ruth T. Prokop,

Chair, Merit Systems Protection Board.

5 CFR is amended by adding Parts 1204–1206 to read as follows:

PART 1204—FREEDOM OF INFORMATION ACT

Subpart A—Purpose and Policy

Sec.

Subpart B—Procedures for Obtaining Records

Subpart C—Appeals

Authority: 5 U.S.C. 552

Subpart A—Purpose and Policy

§ 1204.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Freedom of Information Act ("the Act") through which the public may obtain records controlled by the Board.

§ 1204.2 Policy.

(a) It is the policy of the Board to release records when:

(1) The request submitted reasonably describes such records; and

(2) The request is made in accordance with the rules of this part.

(b) Records shall be disclosed to a requestor unless:

(1) They are exempt from disclosure under subsection (b) of the Act; and

(2) Their disclosure would not be in the public interest.

Subpart B—Procedures for Obtaining Records

§ 1204.11 Submission of request.

(a) *Place.* Requests for copies of records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Merit Systems Protection Board, Washington, D.C. If the requestor has reason to believe the records in question are located in a field office, it is appropriate to submit the request to that office. Requests to the field shall be addressed to the Chief Appeals Officer at the appropriate field office listed in appendix II of 5 CFR Part 1201. Requests shall be made during normal business hours, or submitted by mail. Requests shall be in writing.

(b) *Form.* Each request shall reasonably describe the record including any name, subject matter and number or date where possible so that the Board can identify and locate the record. Requests submitted by mail shall be clearly marked as a "FREEDOM OF INFORMATION ACT REQUEST" on both the envelope and letter.

(c) *Payment.* Requests shall be accompanied by the fee or an offer to pay the fee according to § 1204.13 of this part.

§ 1204.12 Time limitations and determinations.

(a) *Board determinations.* The Board shall make a determination on the request within 10 working days except under "unusual circumstances."

(1) "Unusual circumstances" means:

(i) The need to obtain the records from other offices;

(ii) The need to obtain and examine a large number of records; or

(iii) The need to consult with another agency having substantial interest in the records requested.

(b) *Time extensions.* Where "unusual circumstances" exist, the Board may extend the time period for making a determination on the request for no more than 10 additional working days and shall notify the requestor of the extension.

(c) *Improper request.* If a request or an appeal is not properly labeled or is submitted to the wrong office, the time for processing the request shall run from the time it is received by the proper official.

(d) *Determining official.* Determinations on requests will be made by the Secretary of the Board or the Chief Appeals Officer.

§ 1204.13 Fees.

(a) Requests for records are subject to the following costs for search and duplication:

(1) If the record(s) is in excess of 50 pages, $0.10 will be charged for each page. Records under 50 pages will be provided without charge.

(2) Manual records search.

(i) First hour of any single request: No fee.

(ii) Each additional hour or fraction thereof: $5.00.

(iii) Fees for search and duplication of automated records shall be provided upon request.

(b) At their discretion, the Secretary or Chief Appeals Officer may refuse to furnish records prior to receipt of the required fee.

(c) At their discretion, the Secretary or Chief Appeals Officer shall furnish records without charge or at a reduced charge where the release primarily benefits the general public.

§ 1204.14 Denials.

Denials of a request for a record, in whole or in part, shall be in writing and shall state the reasons for the denial and notify the requestor of the right to appeal the denial.

Subpart C—Appeals

§ 1204.21 Submission.

(a) *Place.* Appeals shall be addressed to the Chair, Merit Systems Protection Board, Washington, D.C. 20419.

(b) *Form.* Appeals shall be clearly marked as "Freedom of Information Act Appeal" on both the envelope and letter. Appeals must be in writing and shall include:

(1) A copy of the original request;

(2) A copy of the written denial; and

(3) A statement of the reasons why the original denial should be overruled.

§ 1204.22 Determinations on appeal.

(a) Determinations by the Board on the appeal shall be made within 20 working days after receipt.

(b) Determinations on the appeal shall be in writing; shall state the reasons therefor if denied; and shall notify the requestor of the right to judicial review of any denial.

PART 1205—PRIVACY ACT

Subpart A—Scope

Sec.

Subpart B—Procedures for Obtaining Records

Subpart C—Amendment of Records

Subpart D—Appeals

Authority: 5 U.S.C. 552a.

Subpart A—Scope

§ 1205.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Privacy Act ("the Act") by which an individual may make an inquiry regarding a record, gain access to such record, or amend the record.

§ 1205.2 Policy.

It is the policy of the Board to facilitate the full exercise of rights conferred by the Act upon individuals and to insure the privacy of records maintained regarding such individuals. Such records shall contain only that information which is relevant and necessary to the functions of the Board and shall be treated in a manner which is fully in accordance with the provisions of the Act.

§ 1205.3 Definitions.

The definitions of 5 U.S.C. 522a apply to this part and are incorporated herein by reference. As used in this part:

"Inquiry" means a request by an individual regarding whether the Board has a record which pertains to that individual.

"Request for access" means a request by an individual to inspect or copy a record.

"Request for amendment" means a request by an individual to change the substance of a particular record by addition, deletion or other correction.

"Requestor" means the individual requesting access or amendment to a record. The individual may be either the person to whom the record requested pertains; a legal guardian acting on behalf of an individual; or a representative designated by that individual.

§ 1205.4 Disclosure of Privacy Act Records.

Records subject to the Privacy Act may be released to persons other than the person to whom the record pertains if such disclosure is permitted under 5 U.S.C. 552a(b) (1–11). This includes release as required by the Freedom of Information Act.

Subpart B—Procedures for Obtaining Records

§ 1205.11 Submission of request.

(a) *Place.* Inquiries or requests for access to records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Merit Systems Protection Board, Washington, D.C. 20419. If the requestor has reason to believe the records in question are located in a field office then it is appropriate to submit the request to that office. Requests to the field shall be addressed to the Chief Appeals Officer at the appropriate field office listed in Appendix II of 5 CFR Part 1201.

(b) *Form.* Each submission shall contain the following information:

(1) Name, address and telephone number of the individual to whom the record pertains;

(2) Name, address and telephone number of the individual making the request if the requestor is someone other than the person to whom the record pertains such as an attorney or legal guardian, and evidence of the relationship such as: an authenticated copy of the birth certificate of the minor child, or the court document appointing the individual legal guardian; or an agreement for representation signed by the individual to whom the record pertains;

(3) Such additional information as may assist the Board in responding to the request (for example, the name of the agency which is taking the action, the subject matter of the case, etc.);

(4) Date of inquiry;

(5) Requestor's signature; and

(6) Indication both on the envelope and the letter that the inquiry is a "PRIVACY ACT REQUEST."

(c) Each submission shall comply with the identification requirements set forth in § 1205.13.

§ 1205.12 Time limitations and determinations.

(a) *Board determinations:* The Board shall make a determination on the request within 10 working days except under "unusual circumstances" as described below:

(1) The need to obtain the records from other offices;

(2) The need to obtain and examine a large number of records;

(3) The need to consult with another agency having substantial interest in the records requested; or

(4) Other extenuating circumstances which reasonably prohibit the Board from processing the request within the 10-day period.

(b) *Time extensions.* Where "unusual circumstances" exist, the Board may extend the time period for making a determination on the request for no more than 10 additional working days and shall notify the requestor of the extension.

(c) *Improper request.* If a request or an appeal is not properly labeled or is submitted to the wrong office, the time for processing the request shall run from the time it is received by the proper official.

(d) *Determining official.* Determinations on requests will be made by the Secretary of the Board or the Chief Appeals Officer.

§ 1205.13 Identification.

(a) *In person.* Each individual making a request in person shall be required to present satisfactory proof of identity. In order of preference the following items shall be acceptable.

(1) A document bearing the requestor's photograph; or

(2) A document bearing the individual's signature.

(3) In the event subparagraph (1) or (2) of this paragraph are not available, the requestor will be required to sign a statement asserting his/her identity and acknowledging the requestor's understanding that misrepresentation of identity in order to obtain a record is a misdemeanor and subject to a possible fine of $5,000 under 5 U.S.C. 552a(i)(3).

(b) *By mail.* The identification of a requestor making a request by mail must be certified by a notary public or equivalent official or contain other information sufficient to identify the requestor.

(c) *Parents of minors, legal guardians and representatives.* Parents of minors, legal guardians and representatives must submit identification pursuant to paragraphs (a) or (b) of this section. Additionally, they must present an authenticated copy of the minor's birth certificate, court order of guardianship, or agreement of representation where appropriate.

§ 1205.14 Grant of access.

(a) The alternative methods of access may be granted for inspection of records:

(1) Personal inspection during normal business hours;

(2) Transfer of records to a suitable Federal facility in closer proximity to the requestor;

(3) Provision of copies by mail.

(b) An individual seeking personal access to records may be accompanied by another individual of his/her choice. However, the requestor shall be required to sign a written statement authorizing the discussion and presentation of his/her record in the accompanying individual's presence.

§ 1205.15 Denial of access.

(a) *Basis.* In accordance with 5 U.S.C. 552a(k)(2) the Board may deny access to records which are of an investigatory nature and are compiled for law enforcement purposes. Such requests will be denied only where access to such records would otherwise be unavailable under exemption (b)(7) of the Freedom of Information Act.

(b) *Form.* All denials of access under this section will be made in writing and will notify the requestor of the right to judicial review.

§ 1205.16 Fees.

(a) No fees shall be charged by the Board for any other purpose than making copies of records.

(b) It is the policy of the Board to provide one copy of a record upon request free of charge. However, where the requested record exceeds 50 pages, the Board shall charge $0.10 for each copy.

(c) It is the policy of the Board to provide one copy of the amended pages of any record free of charge as evidence of the amendment.

Subpart C—Amendment of Records

§ 1205.21 Request for amendment.

A request for amendment of a record shall be made to the Chief Appeals Officer at a field office or the Secretary of the Merit Systems Protection Board, Washington, D.C. 20419, depending on which office is maintaining the record. The request shall be in writing and shall be designated on the outside of the envelope and the letter as a "Privacy Act Request" and shall include the following information:

(a) Identification of the record to be amended;

(b) A description of the amendment requested (*e.g.*, addition, deletion, placement of amendment, etc.);

(c) A statement of the basis for the amendment and supporting documentation, if any.

§ 1205.22 Action on request.

(a) *Amendment granted.* Where the amendment requested is granted the requestor shall be notified and supplied a copy of the amendment.

(b) *Amendment denied.* Where the amendment requested is denied in whole or in part the requestor shall be notified in writing and provided the following information:

(1) The basis for the denial; and

(2) The procedures for appealing the denial.

§ 1205.23 Time limitations.

The appropriate official shall acknowledge a request for amendment within 10 days after receipt and shall make a determination on the request.

Subpart D—Appeals

§ 1205.31 Submission of appeal.

(a) *Place.* Appeals shall be addressed to the Chair, Merit Systems Protection Board, Washington, D.C. 20419.

(b) *Form.* Appeals shall be in writing, shall be clearly marked "PRIVACY ACT

APPEAL" on both the envelope and letter; and shall include:

(1) A copy of the original request for amendment;

(2) A copy of the denial; and

(3) A statement of the reasons why the orginal denial should be overruled.

§ 205.32 Determinations on appeal.

(a) A written determination on the appeal shall be made within 30 working days unless the Chair determines that there is good cause for extension. Where an appeal is improperly labeled or is submitted to an inappropriate official, the time limitation for processing the request shall run from the time it is received by the Chair.

(b) If the amendment is granted on appeal, the Chair shall direct that the amendment be made and shall supply the requestor with a copy of the amended record.

(c) If the amendment is denied, the Chair shall notify the requestor of the denial and inform him/her of:

(1) The basis for the denial;

(2) The right to file a concise statement with the Board stating the reasons for his/her disagreement with the denial which shall become a part of the record; and

(3) The right to judicial review of the decision under 5 U.S.C. 552a(g)(1)(A).

PART 1206—OPEN MEETINGS

Subpart A—Purpose and Policy

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1206.2 Policy.
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1206.12 Role of observers.

Authority: 5 U.S.C. 552b.

Subpart A—Purpose and Policy

§ 1206.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Government in the Sunshine Act (5 U.S.C. 552b) ("the Act") by which the Board will conduct open meetings.

§ 1206.2 Policy.

It is the policy of the Board to provide the public with the fullest practicable information regarding the decision-making processes of the Board. Board meetings involving deliberations which determine or result in the joint conduct or disposition of official Board business are presumptively open to the public. It is the intent of these regulations to open such meetings to public observation while protecting individuals' rights and the Board's ability to carry out its responsibilities. Board meetings will be closed in whole or in part only in accordance with the exemptions provided under 5 U.S.C. 552b(c) and where to do so is in the public interest.

§ 1206.3 Definitions.

In this part:

"Meeting" means the deliberations of at least two Board Members where such deliberations determine or result in the joint conduct of official Board business.

"Member" means one of the Members of the Merit Systems Protection Board.

Subpart B—Procedures

§ 1206.4 Notice of meeting.

(a) Notices of Board meetings shall be published in the **Federal Register** at least one week prior to the meeting. Such notice shall include the following information:

(1) Time;

(2) Place;

(3) Subject of meeting and agenda;

(4) Whether the meeting is to be opened or closed; and

(5) The name and telephone number of a Board official responsible for receiving inquiries regarding the meeting.

(b) The Board may, by majority vote, provide less than one week's notice but such notice shall be provided at the earliest practicable time.

§ 1206.5 Change in meeting plans after notice.

(a) Following notice of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time.

(b) Following notice of a meeting, the subject matter of a meeting or the determination to open or close a meeting may be changed only if both of the following conditions are met:

(1) There must be a majority, recorded vote of the Board members that Board business requires the change and that no earlier announcement of such changes was possible; and

(2) There must be a notice of the change in the **Federal Register** and of the individual Board Members' votes at the earliest practicable time.

§ 1206.6 Determination to close meeting.

(a) *Basis.* The Board, by majority vote, may determine to close a meeting in accordance with the provisions of 5 U.S.C. 552b(c)(1–10) and where it is in the public interest.

(b) *General Counsel Certification.* Where the Board has determined that a meeting shall be closed in whole or in part, the General Counsel shall certify the propriety of doing so and state the basis therefor.

(c) *Vote.* Where the Board has voted to close a meeting, within one day of such vote the Board shall make publicly available a record reflecting the vote of each Member on the question. In addition, within one day of any vote which closed a portion or portions of a meeting to the public, the Board shall make publicly available a full written explanation of its decision to close the meeting together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

§ 1206.7 Record of meetings.

(a) *Closed Meeting.* Where the Board has determined that a meeting shall be closed in whole or in part the following record shall be maintained:

(1) A transcript of recording of the proceeding;

(2) A copy of the General Counsel's certification;

(3) A statement from the presiding official setting forth the time and place of the meeting and the persons present; and

(4) A recordation of all votes and all documents considered (which may be part of the transcript).

(b) *Open Meetings.* Transcripts or other recordations shall be made of all open meetings of the Board and shall be made available upon request at actual cost.

§ 1206.8 Provision of information to the public.

Information available to the public under this part shall be made available at the Office of the Secretary, Merit Systems Protection Board, Washington, D.C. 20419. Individuals or organizations having a special interest in activities of the Board may submit a request to the Office of the Secretary to be placed on a mailing list for receipt of information available under this part.

Subpart C—Conduct of Meetings

§ 1206.11 Meeting place.

Meetings shall be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room

designated, alternative facilities shall be made available to the extent possible.

§ 1206.12 Role of observers.

The public may attend open meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited to do so. Observers may not create distractions which interfere with the conduct and disposition of Board business and may be asked to leave if they do so. For the portions of meetings which are partially closed, observers shall leave the meeting room upon request.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

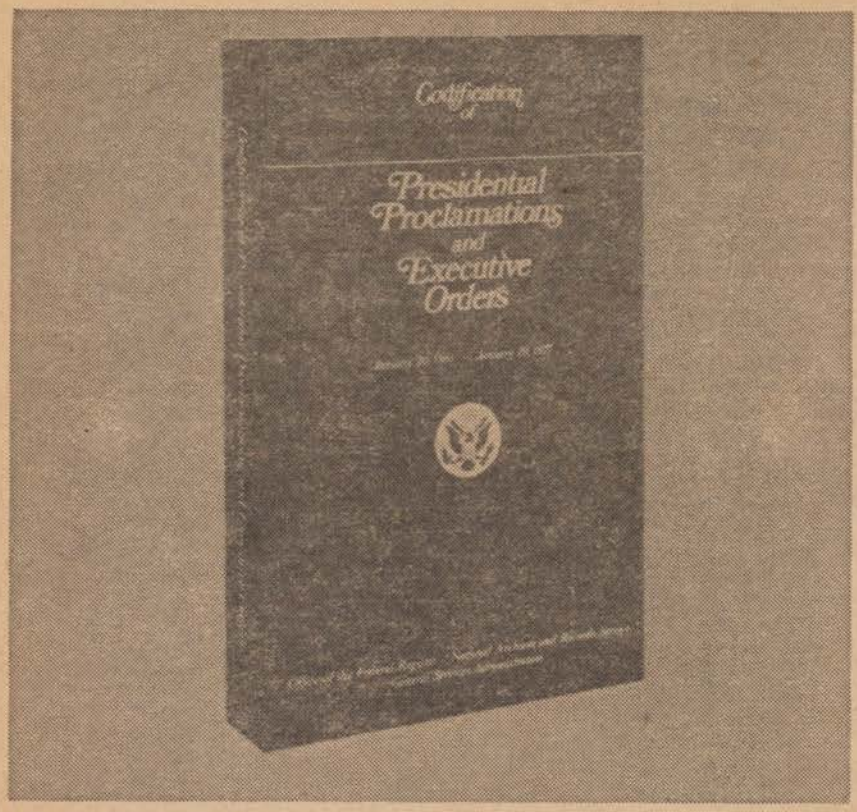
Last Listing July 20, 1979

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–375–3030).

S. 1007 / Pub. L. 96–35 "Special International Security Assistance Act of 1979". (July 20, 1979; 93 Stat. 89) Price $.75.

S. 927 / Pub. L. 96–36 To authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to independence Avenue at Tenth Street, Southwest, in the city of Washington. (July 20, 1979; 93 Stat. 94) Price $.75.

NEW PUBLICATION NOW AVAILABLE



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